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ABSTRACT

This interactive curriculum has been developed to teach students about one of their most important rights as citizens, trial by jury. Knowledge about this right is critical since most of today's students will be called to serve on juries at some point in their lives. The curriculum's goal is to help students understand the history and value of their constitutional right to trial by jury. The week-long curriculum, for use in grades 5-9, contains a teacher's guide with complete lesson plans, a mock trial on videotape, and a CD-ROM trial simulation game. Each interactive lesson in the curriculum challenges students to apply critical thinking and decision-making skills as they experience and explore the roles of attorneys, judges, and jurors in the U.S. justice system. The curriculum begins with five classroom lessons which involve students in such varied hands-on activities as a group decision-making game developed by NASA, a trial by ordeal, a trial by combat, and a video trial of "Gold E. Locks and the Three Bears." Each lesson ends with an individual assignment designed to reinforce what students have learned and to assist teachers in assessing students' understanding of key concepts. The culminating activity in the curriculum is a multimedia computer game called "Make Your Case" in which students match wits as opposing attorneys in a simulated movie-like trial. Members of the legal community should be encouraged to visit the classroom, and the teacher's guide includes suggestions and guidelines designed to help volunteers make their visit an integral part of the curriculum. (BT)

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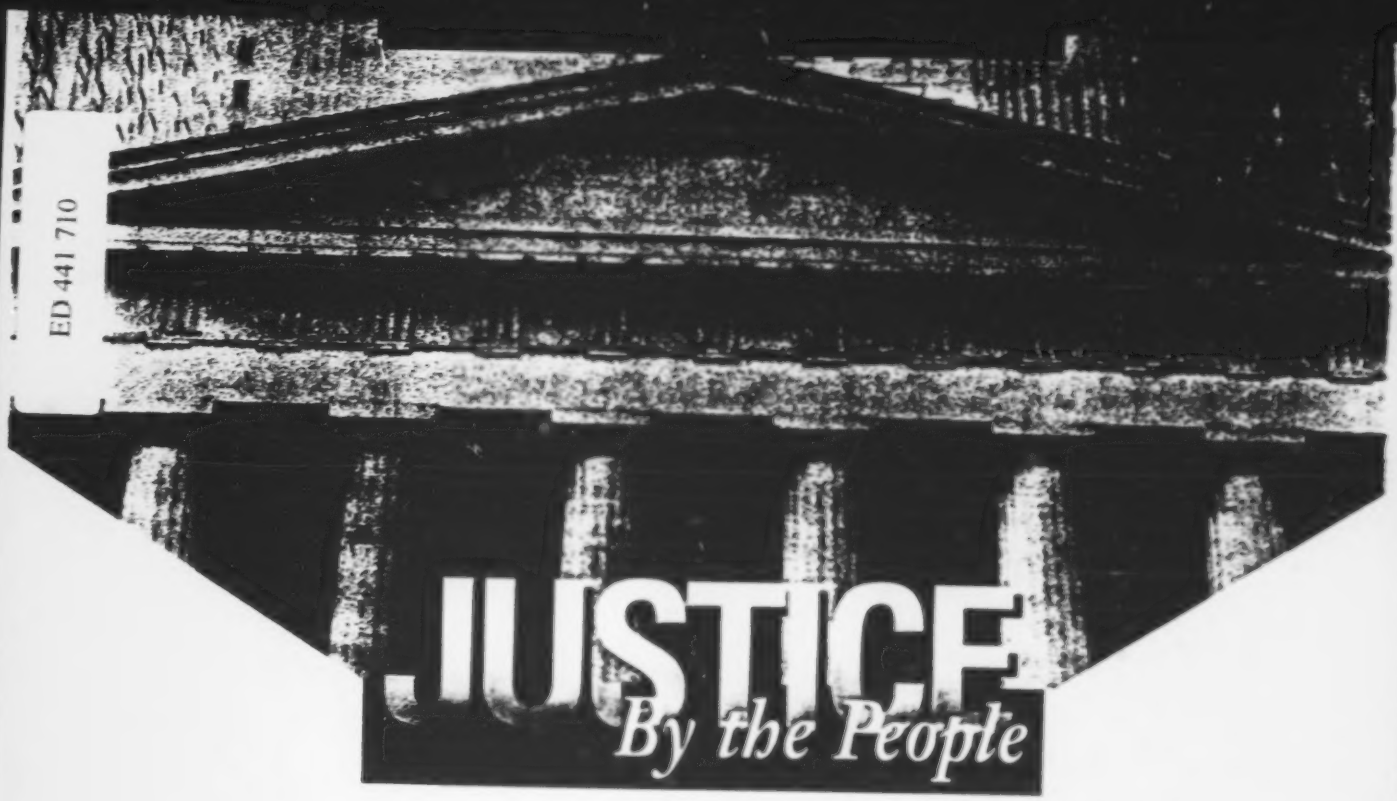

JUSTICE
By the People

Teacher's Guide

SO 031 292

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Foundation of the American Board of Trial Advocates

JUSTICE
By the People

The *Justice by the People* Development Team

Ronald Rouda, President of ABOTA, 1998
Justice by the People was initially conceived by Ronald Rouda in 1995. He envisioned an engaging and interactive curriculum that would utilize the power of technology to provide a fun way for children to learn about our justice system. Since then, Ron has worked closely with the development team to turn his vision into a reality.

Allen Kimbrough, Director of the Foundation of the American Board of Trial Advocates
Along with his many other duties as director of the ABOTA foundation, Allen Kimbrough took responsibility for the funding, management, and oversight of the *Justice by the People* project. He also served as a valued consultant on both the classroom curriculum and the simulated trial game.

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As the former director of business development at CLE Group, producers of the Interactive Courtroom series, Darrell Benatar was a natural choice to head the *Justice by the People* project. In his role as project leader he has worn many hats including curriculum designer, lesson plan writer, game designer, game producer and programmer, and overall project coordinator.

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David Simon has put his experience as a former trial attorney to good use as the producer of a number of multimedia trial advocacy programs including *Cross-Examination: Evidence and Tactics* and *You Be the Judge*. In this project he collaborated on the design and assisted with the development of *Make Your Case*.

Diane Hart, Education Writer and Consultant
Diane Hart has authored a number of social studies textbooks as well as resource books for teachers. She collaborated closely with Darrell on the curriculum design for *Justice by the People* and on the development and design of the teacher's guide.

Jan Alderson, Editor and Content Developer
Jan Alderson brought her years of experience as a social studies content editor for educational publishers to the task of putting together the teacher's guide for *Justice by the People*.

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Mike Maystead has created hundreds of legal exhibits for trials including the O. J. Simpson case. He created the case file and exhibits in *Make Your Case* as well as much of the graphical interface design. He also did significant work on the teacher's guide.

Ingbritt Christensen, Graphic Designer
Ingbritt Christensen has designed packaging and collateral materials for numerous Silicon Valley companies. She worked on the final layout of the teacher's guide and designed the packaging and brochure for *Justice by the People*.

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"The Trial of Gold E. Locks" video was produced by the Indianapolis Bar Association.

Lost on the Moon, a group decision making game, was adapted from a game created by NASA (National Aeronautics and Space Administration). The idea to include this game came from Tim Hallahan, founder of the Harvard Law School Interactive Video Project.

Special thanks to the following educators and their students: Pam Meuser, Dennis Dobbs, Joyce Standing, Claudia King, Robin Schreiber, and Barbara Mindell.

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Contents

Introduction

Why Learn About Trial by Jury? 1

Overview of *Justice by the People* 1

Fitting *Justice by the People* into the Middle School Curriculum 2

About ABOTA 3

Lesson 1: The Value of Group Decision Making

Lesson Overview 4

Teaching Lesson 1 5

Handout 1-1: Lunar Landing Items 7

Handout 1-2: Lunar Landing Scoring Sheet 8

Handout 1-3: Lunar Landing Expert Rankings and Explanations 9

Handout 1-4: Playground Contest Letter 10

Lesson 2: A History of Conflict Resolution and the Jury System

Lesson Overview 11

Teaching Lesson 2 12

Handout 2-1: Conflict Resolution Chart 16

Handout 2-2: Choose Your Trial 17

Lessons 3–5: The Short Version

Lesson Overview 18

Lesson 3: Jury Selection

Lesson Overview 19

Teaching Lesson 3 20

Handout 3-1: Juror Number Cards 23

Handout 3-2: Jury Duty Interviews 24

Lesson 4: The Trial of Gold E. Locks

Lesson Overview	25
Teaching Lesson 4	26
Volunteer Guidelines: Teaching the Trial of Gold E. Locks	27
Handout 4-1: Rules of Evidence	29
Handout 4-2: Raising Objections	30
Handout 4-3: Order in the Court	31

Lesson 5: Jury Deliberation

Lesson Overview	32
Teaching Lesson 5	33
Handout 5-1: Jury Deliberation Form	35
Handout 5-2: Reporting on the Trial	36

CD-ROM Game: *Make Your Case*

Game Overview	37
Using *Make Your Case*	40
Answer Key	43
Trial Exhibits A–G	48

Resources for the Teacher

Working with Volunteers from the Legal Community	54
Volunteer Guidelines: Making the Most of Your Visit	56
Reading 1: The History of Conflict Resolution and Trial by Jury	57
Reading 2: The Jury System	60
Reading 3: The Jury Trial	62
Reading 4: Rules of Evidence	64
Reading 5: Reaching a Verdict	67
Organizations Supporting Law-Related Education	69
Bibliography	70

Introduction

Why Learn About Trial by Jury?

Many of today's students will someday serve on juries. For most, it will be their principal way, other than by voting, of directly participating in the democratic process. Their education and life experiences will guide them in making decisions that are just and fair. As jurors they will cull the facts from diverse testimony and apply the law to those facts. It will be an opportunity to offer great service, but it is also an awesome responsibility. The more jurors understand their role, the better they will be able to fulfill this responsibility.

The right to trial by jury is deeply rooted in both our history and our legal system. All citizens hold the right to have their cases at law, civil and criminal, decided not by government officials but by their peers within the community. This basic principle is secured by most state constitutions and by the Sixth and Seventh Amendments to the U.S. Constitution. In contrast to other countries, where judges alone often decide issues, juries help balance the scales of justice. Juries also keep law in the United States from drifting too far from the will and conscience of the people. When juries speak, Winston Churchill once wrote, "law flows from the people."

The more than five million Americans called for jury duty each year determine guilt and innocence, safety and security, life and death. Jurors from all walks of life—factory workers, teachers, business executives, homemakers—can and do, through their prudent deliberations, consider whether the most powerful corporation or influential citizen has acted justly. Are these jurors really capable of sorting out the difficult and contentious issues that come before them? In an effort to answer that question, the Federal Judicial Center, an agency of the federal courts, conducted a survey of complex cases and found that, without exception, judges and lawyers agreed that jurors "made the correct decision or that the jury had no difficulty applying the legal standards to the facts." A jury's decision can be overturned by the courts or annulled by a legislature, but that rarely happens.

The jury concept has been a powerful force for justice for over 2,000 years. In colonial America, courageous jurors in the Zenger trial delivered the verdict that first established Americans' right to a free press. Thomas Jefferson believed the jury process to be the best of all possible safeguards for the person, property, and reputation of every citizen. American jurist George Boldt has written that "Jury service honorably performed is as important in defense of our country, its Constitution and laws, and the ideals and standards for which they stand, as the service rendered by soldiers in the field of battle in time of war."

Justice by the People is designed to bring this proud American heritage directly to your classroom.

Overview of *Justice by the People*

This course will help you to teach students about the history and value of the right to trial by jury. Students will also learn how a trial by jury is conducted. The five class sessions in this manual utilize interactive and cooperative learning that will help you engage students in the material.

This guide begins with a problem solving game, which students attempt first individually and then in groups. The

game is based on a NASA lunar expedition, and ultimately students can match their efforts with the opinions of NASA experts. This exercise helps students understand the benefits of the group decision making process.

Next, your class will settle a dispute using various historical methods of resolving legal conflicts. Students will learn the benefits and drawbacks of these methods, which will give them a context for understanding the jury system as we practice it in our country today.

In the final three class sessions, students will have an opportunity to participate in a trial. The class will go through a jury selection process, and students will serve as jurors at the trial of Gold E. Locks. The 15-minute mock trial on videotape will give students a chance to see how a trial proceeds and experience as jurors the process of deliberating and delivering a verdict.

In the event that you do not wish to take three class periods to cover the material in the final three sessions (3–5), we provide you with an alternate lesson that merges these three sessions into one.

This course culminates with the *Make Your Case* multimedia computer game. Students will be able to play the role of lawyer in a trial simulation on CD-ROM. This interactive multimedia game lets students control a movie-like trial, questioning witnesses and making objections.

The course also offers an opportunity to bring members of the legal community into the classroom. ABOTA encourages its members to share their time and expertise to help students learn about our jury system.

Fitting *Justice by the People* into the Middle School Curriculum

Justice by the People has been designed for use as either a stand-alone introduction to the jury system or as an integral part of the middle school social studies curriculum. The themes it deals with—decision making, conflict resolution, guilt and innocence, law and order, the rights and responsibilities of citizens, and equal justice for all—are both timeless and universal. The following list of opportunities for integrating these lessons into the curriculum is meant to be suggestive, not inclusive.

- *United States History:* Colonial government, Salem witch trials, Zenger trial, British efforts to curtail right to trial by jury in colonies, Declaration of Independence, U.S. Constitution, Bill of Rights, development of judicial branch of government, civil rights movement, citizenship today

- *Ancient and Modern World History:* Ancient Babylon and the Code of Hammurabi, ancient Greece and Athenian jury system, ancient Rome and the Twelve Tables, Byzantium and the Justinian Code, medieval Europe and trials by oath and ordeal, Magna Carta and the right to trial by a jury of one's peers, Glorious Revolution and English Bill of Rights, Enlightenment and natural rights, American Revolution and Declaration of Independence, Universal Declaration of Human Rights and human rights concerns today

- *Civics, American Government, Law-Related Education Courses:* Magna Carta, Declaration of Independence, U.S. Constitution, Bill of Rights, rights and responsibilities of American citizens, judicial branch of government, law and the legal system, human rights concerns today

- *Exploratories, Electives, Advisory, Community Service:* The lessons in *Justice by the People* can be adapted for use in advisory classes or as part of an elective or exploratory course on such topics as citizenship, law and the legal system, and careers in law. This curriculum can also be taught in conjunction with service learning and community service projects focusing on the court system, juvenile justice issues, peer or teen jury programs, and conflict resolution.

Wherever you choose to use this material, you will be serving the broad goals of expanding students' understanding of their rights and responsibilities as citizens and enhancing their appreciation of the heritage and value of the American jury system.

About ABOTA

The American Board of Trial Advocates (ABOTA) was created in 1958 as a not-for-profit organization dedicated to defending the American civil justice system.

With a membership comprising experienced attorneys representing both plaintiffs and defendants in civil cases, ABOTA is uniquely qualified to speak from a consensus perspective of lawyers who know how the American jury system operates—and who know that the jury's constitutionally mandated role is as the protector of the rights of person and property.

The Foundation of the American Board of Trial Advocates was established in 1993. The goals of the Foundation are to provide education to the American public concerning the history and value of the right to trial by jury and to promote professional education designed to elevate standards of legal professionalism, integrity, honor, and courtesy.

The Value of Group Decision Making

Lesson 1

Lesson Overview

Summary

This lesson is based on a game developed by the National Aeronautics and Space Administration (NASA) to demonstrate the value of group decision making. Students are asked to prioritize a list of items individually and then as a group. Next they compare their lists with the expert rankings provided by NASA. In the end, the class will discuss the dynamics and value of group decision making. As an assessment activity, students will write a letter suggesting that group decision making be used in designing a new playground.

Lesson Objectives

As a result of this lesson students should be able to:

- *describe group decision making;*
- *identify situations in which group decision making may be useful;*
- *give reasons why groups may make better decisions than individuals.*

Preparation/Materials Required

- Handout 1-1: Lunar Landing Items (p. 7)
  - one copy per student or a transparency for the class
- Handout 1-2: Lunar Landing Scoring Sheet (p. 8)
  - one copy per student
- Handout 1-3: Lunar Landing Expert Rankings and Explanations (p. 9)
  - one copy per group or a transparency for the class
- Handout 1-4: Playground Contest Letter (p. 10)
  - one copy per student
- Scissors to cut Lunar Landing Items handout into cards for ranking

Teaching Lesson 1

A. Introducing the Lesson

Tell students that they are going to play a game created by the National Aeronautics and Space Administration (NASA) called *Lost on the Moon*. The game is based on the following scenario:

You are one of three astronauts on a flight to the moon. After entering the moon's orbit you and another astronaut take the lunar landing vehicle down to the moon's surface. The third astronaut orbits the moon in the mother ship. You are supposed to land next to the lunar base on the lighted side of the moon. There you will find the supplies that you need to survive on the hot and airless surface of the moon. When you try to land on the moon, you have mechanical difficulties. You are forced to make a crash landing at a spot some 200 miles from the lunar base, still on the lighted side of the moon. Many of the items on board the lunar lander are damaged in the crash, but some items survive. Now you have to choose which of those items you will take with you as you try to make your way on foot to the safety of the lunar base.

Read the above scenario to the class. Then pass out Handout 1-1: Lunar Landing Items and Handout 1-2: Lunar Landing Scoring Sheet to your students. Explain that the 15 items listed on these sheets survived the crash undamaged but that there is too much here to carry by foot to the lunar base. Students will have to choose what to take and what to leave behind.

B. Developing the Lesson

1. Have students cut the Lunar Landing Items handout into 15 cards. Ask them to work individually at arranging their cards in order from the most important items to take with them to the least important. When they are finished, students should record their rankings in the first column of their Lunar Landing Scoring Sheets, with 1 being the most important item to take, 15 the least.

2. Have students repeat the exercise, this time working in small groups of 4 or 5 students. Give them a limited amount of time to discuss their choices and come up with a group ranking of the same items, recording the group consensus in column two of their Lunar Landing Scoring Sheets.

3. When the groups have completed the rankings, display the Lunar Landing Expert Rankings and Explanations on an overhead projector or pass out copies of the rankings to each group. Discuss each of the rankings, clarifying the explanations as necessary. Then have students record the expert rankings in column three of the scoring sheet.

4. Guide students through the scoring process as described on the Lunar Landing Scoring Sheet.

C. Concluding the Lesson

1. When students have completed the scoring process, poll the class to find out how many students have an individual error point total that is less than their group error point total and

how many have an individual total that is greater. Have students offer reasons why they think their individual totals are less than or greater than their group totals.

2. Discuss with the class how group decision making works. Ask students to reflect on their experience of discussing the rankings with other students.
   - Did you change your mind about a ranking? What changed your mind?
   - Did anyone say something that gave you an idea or started you thinking about changing your rankings?
   - Did anyone in your group contribute something you didn't know that helped the group make a better decision?

3. Ask students to consider some disadvantages of group decision making.
   - What part of the group work was frustrating?
   - What decisions would you not want to make in a group?
   - When is group decision making a good idea?

4. Conclude the discussion by asking students to summarize advantages and disadvantages of group decision making, listing their conclusions in two columns on the chalkboard. Reasons might include that the members of a group can combine all their different experiences and knowledge. Group decision making lets people think out loud and try out different ideas. On the other hand, group decision making may not always work for personal decisions, and often takes longer. Working in groups can also be frustrating.

D. Assessing the Lesson

Using Handout 1-4: Playground Contest Letter, students complete a letter to the school principal about how a playground design contest should be conducted. Students are asked to take the view that designs generated through group decision making will be stronger than designs generated individually. The activity may be completed in class or assigned as homework.

1. Give students Handout 1-4. You may want to go over the instructions and, if necessary, help students shape the statement of opinion. Suggest they list as many reasons as they can to support their view that group ideas for the playground design would be better than individual ideas. Encourage them to back up their reasons with stories, examples, or quotes from other people. Remind students that they can use their experiences with the NASA game as supporting evidence.

2. To evaluate the students' letters, look for the following:
   - The opening statement clearly expresses the idea that in some circumstances groups can make better decisions than individuals.
   - One or two reasons that back up the opening statement. For example, two people can have twice as many ideas as one student, or one person can build on another person's ideas.

Handout 1-1

Lunar Landing Items

Matches 1 box	**Food concentrate** mix with water to make food	**Nylon rope** 50 feet long
Parachute	**Portable heater** battery operated	**Handgun** .45 caliber
Dehydrated milk 1 case, mix with water to make milk	**Oxygen** 2 tanks, 100 pounds each	**Moon map** shows positions of groups of stars to help people find their way around the moon
Life raft self-inflating, comes with a high pressure CO_2 cartridge (container of carbon dioxide) to inflate it	**Compass** magnetic	**Water** 5 gallons
Flares self-igniting	**First aid kit** includes vitamins and medicines that can be given using a special hypodermic needle that inserts into a spacesuit	**Communication device** solar powered

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Lunar Landing Scoring Sheet

Instructions

1. Record your rankings in the first column by placing the number 1 by the most important item, the number 2 by the second most important, and so on through number 15, the least important.
2. Record your group's rankings in the same way in the second column.
3. Record the expert rankings in the third column.
4. Find your error points by calculating the difference between your ranking and the expert ranking for each item. Subtract the smaller number from the larger number and write the difference in column four. When finished, add all your error points and write the result at the bottom of the column.
5. To find your group's error points, calculate the difference between the group ranking and the expert ranking for each item. Subtract the smaller number from the larger number and write the difference in column five. Add all the group error points and record the total at the bottom of the column.

The smaller the score, the better you or your group did at matching wits with NASA's experts.

Item	Your Ranking	Group Ranking	Expert Ranking	Your Error Points	Group Error Points
Matches					
Food concentrate					
Nylon rope					
Parachute					
Portable heater					
Handgun					
Dehydrated milk					
Oxygen					
Moon map					
Life raft					
Compass					
Water					
Flares					
First aid kit					
Communication device					
			Totals		

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Handout 1-3

Lunar Landing Expert Rankings and Explanations

1. **Oxygen:** Oxygen is the most important thing for survival because the moon has no air.

2. **Water:** Water is necessary to replace the body fluids you would lose working in the heat of the moon's lighted side.

3. **Moon map:** The map is important for figuring out how to find the moon base.

4. **Food concentrate:** Food will be vital in surviving the journey.

5. **Communication device:** This device may be necessary for contacting the mother ship.

6. **Nylon rope:** Rope may be useful in scaling cliffs or in case of injury, perhaps for making a splint.

7. **First aid kit:** Vitamins and medicines may be necessary for survival.

8. **Parachute:** A parachute may be used as a shield from the sun's rays, which can be very intense on the moon.

9. **Life raft:** The force of the CO_2 squirting from the container could be used to propel you across the moon's surface.

10. **Flares:** Flares may be useful for signaling the mother ship when the lunar base is sighted.

11. **Handgun:** The force of a bullet shot from a gun kicks the gun back. This force could be used to help people move across the moon.

12. **Dehydrated milk:** Milk is not as efficient a food source as the food concentrate.

13. **Portable heater:** A heater is not necessary on the lighted side of the moon.

14. **Compass:** The compass is useless because the moon has no magnetic north and south poles.

15. **Matches:** Matches are useless because they need oxygen in order to burn, and the moon has no air.

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Playground Contest Letter

Your school has just received money to redesign the outdoor play area. The principal is holding a contest and has asked each student to submit a plan for a new playground. You think it would be better if students worked in groups to come up with plans for the playground. Write a letter to the principal trying to persuade him or her to allow students to enter the contest in groups.

(Date) _____

Dear _____:

I am writing to you about the playground design contest.

(Statement of opinion) _____

_____

_____

(Reasons) _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Sincerely,

(Your name) _____

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Lesson 2

A History of Conflict Resolution and the Jury System

Lesson Overview

Summary

This lesson begins with a staged conflict between students that provides them with an opportunity to explore methods that societies have used to resolve legal conflicts. The teacher suggests resolving the dispute by a kind of "trial by ordeal" using jawbreakers. Students also role-play resolving the case using other historical means of conflict resolution—trial by combat and trial by oath. Students will then watch a short video that traces the early guarantees of trial by jury in the United States. In the assessment activity, students are presented with a scenario in which they are falsely accused of shoplifting. They must then choose a method of trial to resolve the accusation and justify their choice.

To learn more about this topic see Reading 1, "The History of Conflict Resolution and Trial by Jury," on pages 57–59.

Lesson Objectives

As a result of this lesson students should be able to:

- *understand that methods for resolving legal disputes have evolved and improved over time;*
- *identify advantages and disadvantages of different conflict resolution methods;*
- *understand that a trial by jury involves group decision making.*

Preparation/Materials Required

- Handout 2-1: Conflict Resolution Chart (p. 16)
  - one copy per student
- Handout 2-2: Choose Your Trial (p. 17)
  - one copy per student
- Colored jawbreakers or other candy that will temporarily stain students' tongues—at least two candies plus one that does not stain
- Cane or towel (optional)
- TV and VCR
- "Justice by the People" video

Teaching Lesson 2

A. Introducing the Lesson

Explain that in the United States we are guaranteed the right to trial by jury in both civil and criminal cases. Civil cases involve individuals arguing over private matters, such as agreements, money owed, and property. Criminal cases involve a crime against society, such as theft and drunk driving.

As a jumping-off point for exploring several historic methods of conflict resolution, stage a conflict in class. Enlist the aid of four students—one to act as the accuser and three to stand accused. The accuser should accuse the other three students of breaking a school rule, such as swearing or eating in class. The accused students should deny the charge.

B. Developing the Lesson

Trial by Ordeal

1. Explain that you are putting the accused on trial. But instead of trying the case in front of a jury, you are relying on a trial by ordeal. Give the accused students a piece of hard candy and tell them to place it in their mouths for one or two minutes without biting on it. Ensure that all of the candies will leave the students' mouths brightly colored except one.

2. During the time the students are subjected to this "ordeal," explain to the rest of the class that at the end of a few minutes, the accused students will stick out their tongues. Any student whose tongue is brightly colored will be considered guilty because a colored tongue is evidence that evil words (lies) have passed through the person's lips. A tongue that is not colored is proof of innocence.

   Explain that people have always needed ways to resolve legal conflicts, and that trial by ordeal was a common method used in Europe during the Middle Ages. Accused persons were forced to undergo dangerous tests, even torture, because the people believed that the innocent would not be hurt or that their wounds would heal miraculously. For example, a person might be made to walk a certain number of steps carrying a piece of red-hot iron. After a certain number of days, if the wound had begun to heal, the person was said to be innocent. If the wound had become infected or was not healing, the person was judged guilty. Ask students if they can think of examples of trial by ordeal in colonial America. Students might suggest the Salem witch trials.

3. Have the students stick out their tongues, and then write the "verdicts" in the trial by ordeal on the chalkboard. Ask the students if they think a colored tongue is enough to prove guilt or innocence. They will probably say no. Try the case again, this time in a trial by oath.

Trial by Oath

1. Explain that in a trial by oath people accused of a crime only had to swear, or take an oath, that they were innocent—unless others swore against them. The community was counting on people of good reputation to tell the truth when they spoke under oath. To lie under oath would be to risk being ostracized by the community.

2. Have each of the accused students swear to his or her innocence before a council of "nobles," which might be a small group of students or all members of the class who do not have another role. Then have each of the accused students choose two supporters to testify under oath about the student's good character. But before the witnesses testify, tell them that if the nobles find one of the accused parties guilty, they will punish any witness who supported that person.

3. When the witnesses have testified, have the nobles vote and render their verdict for the accused. Write that verdict on the chalkboard.

Trial by Combat

1. Try the case again, this time by combat. Explain that in Europe during the Middle Ages, trial by combat was not a free-for-all but a structured affair, sometimes involving a duel with spears, swords, or daggers. The disputing parties could either fight their own battles or choose a champion to fight for them. They thought that winning was proof of innocence because God would provide a just outcome.

   According to the "Song of Roland," in one such ordeal the champion of Charlemagne smote his foe "through the nasal of the helmet ... and therewith the brain of Pinabel went gushing from his head." Such duels did not always end in death, however. The court established the terms of the combat.

2. Have a student who represents "the local lord of the classroom" choose one champion for the class, and the three accused students choose another champion to compete on their behalf in a contest such as balance wrestling, sometimes called Indian arm wrestling, or boundary tug.

   In balance wrestling, two contestants stand with their right feet braced against each other, outer edges touching. For balance the left foot is well to the back. The contestants grasp right hands. The object is to make the opponent move one or both feet or touch the ground with any part of the body except the feet.

   For boundary tug, draw two lines on the floor, about five apart. Between the lines the two contestants face each other, with right toes touching and left feet firmly planted to the back for balance. The contestants grasp a cane or a towel, and each tries to pull the other across one of the lines.

3. After the trial by combat, write the verdict on the chalkboard. Have students compare the verdicts. Were they the same under each method? Pass out Handout 2-1: Conflict Resolution Chart. Have students fill out the chart as class discussion proceeds. Tell them they will need the completed chart for a later assignment. See the completed chart on the opposite page.

4. Discuss with the class the advantages and disadvantages of each type of trial.
   - Why did people think these were good kinds of trials?
   - Do you think any of these methods would be a good way to decide someone's guilt or innocence today?
   - Would you like to be tried any of these ways? Why or why not?

C. Concluding the Lesson

1. Ask students what trials are like in our country today, listing characteristics of the jury trial on the chalkboard.
   - Who decides whether the accused person is guilty or innocent?
   - Where does the jury come from?

2. Show the video "Justice by the People," which traces the early guarantees of trial by jury in the United States. Before students view the video, you may wish to introduce the terms "jurisdiction" and "common law." As students watch the video, have them look for evidence that the people who founded the United States thought that trial by jury was an important right.

3. Conclude by asking students to consider the advantages of a jury trial.
   - Why do you think Americans thought the right to a trial by jury was so important?
   - How is a trial by jury different from trial by ordeal, combat, or oath?
   - What does a jury have in common with the group you were part of during the NASA game?
   - How does a jury reach its verdict?

Conflict Resolution Chart

Type of Trial	Advantages	Disadvantages
Trial by Ordeal	• Trial was quick. • The verdict was clear.	• Guilt or innocence could be determined solely by chance, not facts. • Innocent people could be badly hurt or killed.
Trial by Oath	• People who knew the accused helped to decide the case.	• Witnesses might lie or testify to things they know nothing about. • People deciding case may be biased because they know the accused.
Trial by Combat	• Trial was quick. • The verdict was clear.	• Seems unfair to people who are old, weak, or unskilled in combat. • Outcome is determined by something that has nothing to do with the dispute.
Trial by Jury	• A jury is more likely to reach a fair verdict. • Based on evidence, not strength or luck.	• Jury trials take time. • Jurors have to take time off work. • Sometimes juries cannot agree on a verdict.

D. Assessing the Lesson

1. In Handout 2-2: Choose Your Trial, students are presented with a scenario in which they are accused of shoplifting. Students fill out a form in which they declare how they wish to be tried for their alleged offense: by ordeal, by combat, by oath, or by jury. They must then give reasons for their choice. Remind students to refer to their Conflict Resolution Chart as they explain their choices. This activity may be completed in class or assigned as homework.

2. There is no correct answer in this assignment. In evaluating student responses, look to see that students have explained their choices with reasons that are realistic and convincing.

3. When students have completed the assignment, ask for a show of hands to see how many students chose each kind of trial. Review with students the advantages of a trial by jury.

Conflict Resolution Chart

Type of Trial	Advantages	Disadvantages
Trial by Ordeal		
Trial by Oath		
Trial by Combat		
Trial by Jury		

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Handout 2-2

Choose Your Trial

You are in a store with some friends. One of them takes an item off the shelf and puts it into your backpack without you knowing it. A little later you are accused of shoplifting by a security guard. He searches your backpack and finds the item. He accuses you of breaking the law. You say that you did not break the law. The dispute must be settled in a trial of your choosing. Which type of trial do you choose and why?

Trial Information Form

Date _____

Your name _____

Nature of the alleged crime _____

Your side of the story _____

Trial preference (Circle one)

Trial by ordeal Trial by combat Trial by oath Trial by jury

Reasons for your choice _____

Signature _____

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The Short Version

Lesson Overview

Summary

Lessons 3, 4, and 5 each take at least one full period of class time to teach. You can, however, cover these three lessons in from one to one-and-a-half class periods by following the suggestions below.

Lesson 3: Jury Selection

- See Introducing the Lesson. Ensure that students are familiar with the story of Goldilocks.
- Omit the jury selection process. Assign students to juries of 6 to 12 students each.
- Omit the jury interview and move on to Lesson 4.

Lesson 4: The Trial of Gold E. Locks

- Conduct Lesson 4 without a visiting member of the legal community.
- You may wish to prepare students for the video "The Trial of Gold E. Locks" by introducing the different roles that people (and bears) play in the trial and the customary sequence of events. (See Volunteer Guidelines: Teaching the Trial of Gold E. Locks.)
- The video prompts you to stop the tape each time an attorney raises an objection. These stops allow for class discussion based on Handout 4-1: Rules of Evidence. Instead, give brief explanations of the objections, perhaps reading from the handout to help students understand the objections and see what testimony they as jurors must discount.
- Omit the Raising Objections activity and move on to jury deliberation.

Lesson 5: Jury Deliberation

- Appoint a foreperson for each jury.
- Have the juries deliberate and return their verdicts.
- Conclude by asking students to compare the jury deliberation process to the group decision making process they experienced in the NASA game.

Lesson 3

Jury Selection

Lesson Overview

Summary

In this classroom simulation of the jury selection process, the teacher plays the role of the judge and conducts the jury selection. To keep things simple, this will not be an adversarial process as is often the case in trials. Instead, the judge will select a jury. Those students who are not selected will form a jury of alternates. Those students who are disqualified for some reason will form a shadow jury. As an assessment activity, students play the role of newspaper reporters and interview two adults about their experiences with jury duty.

To learn more about jury selection, see Reading 2: "The Jury System" on page 60.

Lesson Objectives

As a result of this lesson, students should be able to:

- *explain how juries are selected;*
- *give reasons why people might not be chosen for jury duty.*

Preparation/Materials Required

- Handout 3-1: Juror Number Cards (p. 23)
  - photocopy; cut the copy to provide at least one number per student and place in a container
- Handout 3-2: Jury Duty Interviews (p. 24)
  - one copy per student and one transparency

Teaching Lesson 3

A. Introducing the Lesson

1. Tell students that a jury trial begins with the selection of jurors, but often long before a case goes to trial people may hear about it from newspapers and TV stories and by word of mouth. Explain that the case of Gold E. Locks and the Three Bears is about to go to court, but you know that people have already talked about it. Ask students what they know about the story of Goldilocks.
   - What have you heard about the case? What happened?
   - Who was involved?
   - What do you suppose the conflict is all about?

2. If students are not familiar with the story, you may wish to retell it or read it to the class. (See the bibliography.) Explain that later the case will be tried before a jury made up of members of the class. Tell the class that you will be the judge when the case of Gold E. Locks comes to trial. The first thing you must do is select a jury.

B. Developing the Lesson

1. Explain that as the judge in the case, your job is to select a jury that will be fair to both sides. To do that you will be questioning members of the jury pool—the large group from which the jurors are chosen, in this case, the class. You will be asking them questions both as a group and individually. You may want to explain that the process of questioning prospective jurors is called *voir dire*, a French phrase meaning "to speak the truth."

2. Tell the class that you will be calling prospective jurors by number. Have each student draw a number from the container of Juror Number Cards. Have students fold a sheet of paper in half and on the bottom half write the number they have drawn. Ask them to make the number big enough so that you can read it easily from across the room. Students can then stand the paper on the desk or table in front of them, like a tent, with the number facing you.

3. Introduce yourself as the judge and thank the jury pool for attending. Explain that for this proceeding, you will be questioning the prospective jurors in order to select the jury for the trial of Gold E. Locks. Tell them that it is important that prospective jurors give truthful answers. Explain that potential jurors may be dismissed if you have a reason to think they might not be able to make a fair decision. Reasons for dismissal might include being good friends with, or related to, any parties in the case. Ask the students to stand, raise their right hands, and take the prospective jurors' oath.

Oath for Prospective Jurors

"Do you, and each of you, solemnly swear or affirm that you will truthfully answer all questions asked of you by the Court?"

4. Call numbers 1 through 6, 8, 10, or 12, according to the customary size of juries in your state. Ask the prospective jurors to take seats in the front of the classroom. Question the group as a whole first, then individually, dismissing students with obvious biases. Then call additional prospective jurors one by one, in numerical order, questioning them

and continuing to dismiss potentially biased jurors until you have selected a complete jury.

Following are some suggestions for group and individual questions. You do not need to ask each prospective juror all of the questions.

Suggested General Voir Dire Questions

- Does anyone know either of the lawyers representing the parties in this case?
- Does anyone know the defendant Gold E. Locks personally?
- Is anyone here related to the Three Bears?
- Is anyone here a close friend of a bear of any kind, including a teddy bear or panda bear?
- Has anyone here ever entered someone else's house without their permission? Explain.
- Have you ever had someone enter your house without your permission? Explain.
- Does anyone here believe that it is ever legal to enter someone's home without permission? Explain.

Suggested Individual Voir Dire Questions

- What is your name?
- What is your occupation?
- Have you, any member of your family, or a close friend ever been on trial? What happened? How did this affect your opinion of the legal system?
- Have you, members of your family, or close friends had legal training or experience? Have you ever worked around lawyers, judges, or police officers?
- How do you feel about the legal system in general?
- Do you know of any reason at all why you would not be able to consider the evidence fairly?
- Do you think that a person who is arrested for a crime is probably guilty?
- Do you know of any reason why you would not be able to follow the judge's instructions?
- Do you know of any reason why you could not make a fair decision in the case?

5. Ideally, the judge should question the remaining members of the jury as well to see if they qualify as alternates, but you can question them briefly as a group or simply designate them as alternates without questioning, if time is short.

6. Once the questioning is completed, read the list of jurors and the list of alternates aloud. Tell the alternates that they will form an alternate, or second, jury in the trial of Gold E. Locks. However, explain that in real trials one or two people are chosen to be alternates. They hear the case along with the regular jurors so that they can be ready to replace any juror that drops out during the trial. If none of the regular jurors drops out, the alternate does not participate in jury deliberations. Tell students who were disqualified that they will form a third jury, perhaps standing for public opinion.

C. Concluding the Lesson

Once the jury has been selected, discuss the process with your students. You might explain that in some courts, as students might have seen on TV, attorneys for each side may question and dismiss potential jurors in a similar way.

- Why did the judge ask the potential jurors if they knew Gold E. Locks?
- Why did the judge ask if the potential jurors were related to the Three Bears?
- Why did the judge ask about people's previous experiences with trials? With lawyers?
- What difference might it make if lawyers were conducting the jury selection?
- Considering the kinds of questions used in the jury selection, what do you think the judge was looking for?

D. Assessing the Lesson

1. In Handout 3-2: Jury Duty Interviews, students interview two adults to learn more about the jury selection process. The handout is a questionnaire that students will complete as they conduct their interviews. When you introduce the interview questionnaire, point out that if someone answers no to questions 1, 2, and 3, they might still have something to say about the rest of the questions. Tell students that they will use the completed questionnaires in a class discussion.
2. For the discussion, display a copy of the questionnaire as a transparency. Then ask students to respond to the following questions with a show of hands—one hand for one interviewee, two hands for both interviewees. Tally the responses in one of the yes/no columns on the transparency.
   - How many of the people you interviewed had ever received a jury duty summons?
   - How many had reported for jury duty?
   - How many were questioned by a judge or lawyers in the case?
   - How many had served on a jury?
   - How many would be willing to serve on a jury in the future?
3. Discuss any experiences the interviewees shared with the students, especially those that might help students understand more about how juries are chosen. Ask:
   - Do you think this is a fair way to select a jury?

Handout 3-1

Juror Number Cards

Juror 1	Juror 2	Juror 3	Juror 4	Juror 5	Juror 6
Juror 7	Juror 8	Juror 9	Juror 10	Juror 11	Juror 12
Juror 13	Juror 14	Juror 15	Juror 16	Juror 17	Juror 18
Juror 19	Juror 20	Juror 21	Juror 22	Juror 23	Juror 24
Juror 25	Juror 26	Juror 27	Juror 28	Juror 29	Juror 30
Juror 31	Juror 32	Juror 33	Juror 34	Juror 35	Juror 36

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Jury Duty Interviews

Imagine that you are a reporter for a big newspaper. Your job is to find out about people's experiences with jury duty. You will put your information together with information that other reporters gather to create a survey on jury duty.

For this assignment, interview two people. Check off their yes and no answers in the boxes below. If a person has been called for jury duty or has served on a jury, ask if they will tell you what it was like. Where did they have to go? What questions did they have to answer? Who questioned them? Write their replies in the space below and on the back of this handout.

Jury Interview Questionnaire

Questions	Person 1 Yes	Person 1 No	Person 2 Yes	Person 2 No
1. Have you ever received a jury duty summons?	❑	❑	❑	❑
2. Did you ever have to report to a court to see if you would be chosen?	❑	❑	❑	❑
3. Were you questioned to be on a jury?	❑	❑	❑	❑
4. Did you ever serve on a jury?	❑	❑	❑	❑
5. Whether or not you have been on a jury in the past, would you be willing to do it in the future?	❑	❑	❑	❑
6. Additional comments:				

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Lesson 4

The Trial of Gold E. Locks

Lesson Overview

Summary

In Lesson 4, students will view the trial of Gold E. Locks on videotape. You or a visiting member of the legal community will introduce information about how a trial works. During the videotaped trial, you will stop the tape at key points so that the class can discuss the rules of evidence in a jury trial. As an assessment activity, students review the roles of attorneys, judges, and juries during a trial.

For more information on trials, see Reading 3: "The Jury Trial" and Reading 4: "Rules of Evidence" on pages 62–66. For help in finding and working with a volunteer lawyer, see "Working with Volunteers from the Legal Community" on pages 54–55.

Lesson Objectives

As a result of this lesson students should be able to:

- *explain why a trial has rules that guide how and what evidence is presented to a jury;*
- *understand that the judge makes sure these rules are followed and instructs the jury on what the law is and how to apply it in the case;*
- *understand that a jury decides whether the law has been broken.*

Preparation/Materials Required

- Handout 4-1: Rules of Evidence (p. 29)
  - one copy per student and one for visitor
- Handout 4-2: Raising Objections (p. 30)
  - one copy per student and one for visitor
- Handout 4-3: Order in the Court (p. 31)
  - one copy per student and one transparency
- Volunteer Guidelines: Teaching the Trial of Gold E. Locks (p. 27–28)
  - one copy for visitor
- Volunteer Guidelines: Making the Most of Your Visit (p. 56)
  - one copy for visitor
- TV/VCR and "The Trial of Gold E. Locks" video

Teaching Lesson 4

A. Introducing the Lesson

Explain that students will view the trial in the case of Gold E. Locks and the Three Bears. Tell them to listen to the instructions the judge gives the jury because in the next lesson they will act as the jury and decide the case. If you have a volunteer from the legal community in the classroom, introduce the volunteer, explaining that he or she will help the students understand what happens during a trial.

B. Developing the Lesson

1. The volunteer prepares the students for the video by describing the roles different people play in a trial—the judge, the jury, the lawyers—and a trial's usual sequence of events. You might want to list the sequence of events on the chalkboard. If you are conducting the lesson without a member of the legal community, see Volunteer Guidelines: Teaching the Trial of Gold E. Locks.

2. After you or an attorney explains the roles and the sequence of events in a trial, remind students that as the jury, they must decide the case based on the evidence, not on anything that they heard outside the trial.

3. Introduce the rules of evidence, which regulate the form of questions and answers in a trial. Give students Handout 4-1: Rules of Evidence. Tell students they will use the handout during the tape and also for a later assignment.

4. Play the videotape. "The Trial of Gold E. Locks" follows the "Justice by the People" segment. The video will prompt you to stop the tape whenever an attorney in the trial of Gold E. Locks raises an objection, but before the judge rules. The stops give the volunteer an opportunity to discuss the rules of evidence with the class, and students can refer to the handout during the discussion.

C. Concluding the Lesson

1. When the tape is finished, have the volunteer review the various roles people played in the trial, the sequence of events, and the objections the lawyers raised.

2. Pass out Handout 4-2: Raising Objections. Have students consider each statement and why it might provoke an objection. Then go over the handout as a class to clarify any misunderstandings.

D. Assessing the Lesson

1. In Handout 4-3: Order in the Court students are asked to identify who does what in the courtroom. The activity might be assigned to groups of students to work on in class or it might be assigned as homework for individuals.

2. When students have completed the assignment, review with the class the actions of people in the courtroom. During the discussion you may find it helpful to the students to mark the correct answers on the transparency.

Volunteer Guidelines

Teaching the Trial of Gold E. Locks

Students will be familiar with the story of Goldilocks and the Three Bears from the bears' point of view, and they will have studied the advantages of trial by jury and how a jury is chosen. In the lesson following this one, students will assume the role of jury members and will render a decision in the case.

Case Summary

Gold E. Locks was home on the evening of October 31 (Halloween). Babe E. Bear was trick-or-treating at Gold E. Locks' house. Babe was dressed up as Babe Ruth and hit a ball that broke a window in Gold's house. Gold said she would come by the next morning to talk to Babe's parents. When she arrived, they were not home but the door was open and she smelled porridge. She entered to wait for them. When she sat down in the living room, the chair she sat in broke. She then ate some porridge and went upstairs to lie down. The Bear family came home, found Gold E. Locks in one of their beds, and had her arrested for trespassing.

Introducing the Video

Explain the roles of the people (and bears) that students will see in the trial.

- Bailiff
- Judge
- Jury
- Prosecuting Attorney
- Defense Attorney
- Witnesses
- Court Reporter

Explain that the trial of Gold E. Locks follows the customary sequence of events.

1. Pretrial: Discovery and attempts at a settlement
2. The judge issues preliminary instructions to let the jury know what the issues are.
3. Attorneys make opening statements to tell the jury what they expect to prove.
4. Witnesses are sworn in and testify, prosecution witnesses first, then defense witnesses.
5. The attorneys make final statements to the jury, arguing what they think the verdict should be.
6. The judge gives the jury final instructions explaining the law and how the jury is to apply it.
7. The jury deliberates and delivers a verdict.

Tell students that in the video they will see rules of evidence at work. When an attorney thinks the testimony is not following those rules, he or she objects, and the judge decides whether or not the objection is well founded. Introduce the following terms before viewing the video or as they come up during the trial:

- burden of proof
- sustained
- reasonable doubt
- overruled
- withdraw the question

Also point out to students the difference between direct examination and cross-examination as they watch the trial. These terms are not used in the video.

Viewing the Video

Explain that the video will be stopped whenever an attorney raises an objection, but before the judge rules. Give students Handout 4-1: Rules of Evidence, which they may use to help them predict how the judge will rule. At each objection call on students to suggest what the ruling should be based on the rules of evidence. Comment on their suggestions and provide additional examples of testimony that might and might not be permitted.

- Stop 1: Mom E. Bear is testifying about the condition of the bowls of porridge. The defense attorney objects that her testimony is not relevant.
- Stop 2: Mom E. Bear is explaining what Pop A. Bear saw when he went upstairs. The defense attorney objects that her testimony is hearsay.
- Stop 3: Pop A. Bear is explaining how he likes his porridge. The defense attorney objects that he is expressing opinion, not sticking with the facts.
- Stop 4: Pop A. Bear is describing what was unusual when the Bear family came home from their walk. The defense attorney objects that he has drawn a conclusion (speculation).
- Stop 5: Gold E. Locks is asked a question that suggests an answer. The plaintiff attorney objects that this is a leading question.

Reviewing the Video

Review with the class the roles different people (and bears) played in the trial, as well as the steps in the trial.

Pass out Handout 4-2: Raising Objections, which lists possible exchanges between attorneys and witnesses in the case of Gold E. Locks. Some of the exchanges are taken from the video. Others are inventions. For each exchange, ask students to decide on what grounds an attorney might challenge the testimony. Have students refer to the Rules of Evidence handout to help them decide. Give the class several minutes to circle their responses, then go over the items with the class. Students should understand not only which rule of evidence applies to each exchange, but also why the exchange might detract from the discovery of truth and a fair trial.

The following are reasonable answers:

Question 1. Hearsay

Question 2. Speculation

Question 3. Relevance

Question 4. Hearsay

Question 5. Relevance

Question 6. Speculation

Handout 4-1

Rules of Evidence

During a trial, both sides in the case may present evidence. The testimony of witnesses is important evidence. To guarantee that a trial is fair and help the jury find the truth, courts have rules about the how witnesses can give evidence and what evidence they can give. The judge sees to it that everyone follows these rules of evidence.

1. **Relevance:** Evidence must be relevant. It must have something to do with proving the case.

   Example: In a trial over stolen baseball caps, a lawyer asks a witness about her favorite kind of pizza. The opposing lawyer objects that the question is not relevant.

2. **Hearsay:** Hearsay is usually not allowed as evidence. Hearsay is something a witness may have heard about, but did not hear or see firsthand.

   Example: In a case about missing bananas, a witness testifies, "A neighbor told me that Kim's monkey was hanging around the banana tree." The opposing lawyer objects that the statement is hearsay. The witness did not actually see the monkey near the tree.

3. **Opinion:** Opinions are generally not allowed as evidence. Witnesses are to stick to the facts. Unless witnesses qualify as experts, their opinions, or what they think about those facts, are not acceptable as evidence.

   Example: The witness's first statement in this exchange is a fact. The second statement is an opinion and would not be allowed as evidence.

   Lawyer: "Did the ticket taker tell you what his name is?"

   Witness: "He told me his name is Robert. I don't think he was telling the truth."

4. **Speculation, Conclusions:** Speculation, or someone's idea about what might have happened, is not allowed. A witness cannot jump to conclusions that are not based on what the witness experienced.

   Example: A witness is asked if he saw his friend Kelly on Saturday. He answers: "No, but she was probably playing soccer. She always plays soccer on Saturday." The other lawyer objects that the answer is speculation. The witness didn't see where Kelly was for himself.

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Raising Objections

The following exchanges took place in the Gold E. Locks trial. You saw some of them in the video of the trial. Read each exchange and then circle the reason or reasons a lawyer might object either to the question or the answer.

1. Question: What happened next?

   Answer: Pop A. Bear heard something and went upstairs and yelled out that he saw . . .

   Relevance Hearsay Opinion Speculation

2. Question: What happened next?

   Answer: Gold E. Locks broke the chair. It must have been Gold E. Locks, because everyone else in the neighborhood had gone to work.

   Relevance Hearsay Opinion Speculation

3. Question: What happened on the morning of November 1?

   Answer: She fixed her delicious porridge. She makes the best porridge. I like mine with cinnamon, brown sugar, and two paws full of raisins.

   Relevance Hearsay Opinion Speculation

4. Question: Do you know Gold E. Locks?

   Answer: No. I've never seen her before, but the baker says that she works hard.

   Relevance Hearsay Opinion Speculation

5. Question: Did you notice anything unusual?

   Answer: The chair was broken. I liked that chair because it was red. Red is my favorite color. Maybe I'll buy a blue one.

   Relevance Hearsay Opinion Speculation

6. Question: What happened next?

   Answer: She ran out of the house. I think she felt guilty about breaking the chair.

   Relevance Hearsay Opinion Speculation

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Handout 4-3

Order in the Court

The list below describes actions in a courtroom. For each action, put a check mark in the box that indicates who carries out the action. You can check more than one box.

Jury	Judge	Prosecuting Attorney	Defense Attorney	Bailiff	Courtroom Action
❑	❑	❑	❑	❑	Asks the witnesses questions
❑	❑	❑	❑	❑	Explains to the jury what the law is in the case
❑	❑	❑	❑	❑	Makes objections when the other attorney questions witnesses
❑	❑	❑	❑	❑	Gives a closing argument for the defense
❑	❑	❑	❑	❑	Rules on objections made by the attorneys
❑	❑	❑	❑	❑	Swears in witnesses
❑	❑	❑	❑	❑	Decides whether the defendant is guilty or innocent
❑	❑	❑	❑	❑	Decides whether the witnesses are telling the truth
❑	❑	❑	❑	❑	Gives an opening statement on behalf of the prosecution

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Jury Deliberation

Lesson 5

Lesson Overview

Summary

In Lesson 5, the student juries deliberate and attempt to reach decisions on Gold E. Locks' guilt or innocence. The reading of the verdicts leads to a class discussion on how each verdict was reached. In the assessment activity, students play the role of magazine journalists reporting on their experiences as jurors in the Gold E. Locks trial.

To learn more about jury deliberations, see Reading 5: "Reaching a Verdict" on pages 67–68.

Lesson Objectives

As a result of this lesson students should be able to:

- *describe how a jury deliberates;*
- *understand that it takes a unanimous decision to reach a verdict in a criminal case;*
- *understand the jury process as a group decision making process.*

Preparation/Materials Required

- Handout 5-1: Jury Deliberation Form (p. 35)
  - one copy per jury (cut the handout along the dashed line)
- Handout 5-2: Reporting on the Trial (p. 36)
  - one copy per student or one per pair of students

Teaching Lesson 5

A. Introducing the Lesson

Divide the class into the juries that you set up earlier: the selected jury, a jury of alternates, and the shadow jury made up of disqualified jurors. You may wish to subdivide any group that has more than 12 members. Assign each jury a number and give each group a form cut from Handout 5-1: Jury Deliberation Form.

B. Developing the Lesson

1. Once students are assembled in their juries, explain that jury deliberations proceed somewhat like a meeting, following these steps:
   - Jurors choose a foreperson to run the meeting and to speak for the jury when it returns to the courtroom.
   - The foreperson polls the jurors to see where they stand. It is reasonable for jurors to be undecided at this point. Whether or not the jurors agree, the foreperson calls on each juror to explain the reasons behind his or her vote.
   - The foreperson polls the jury again. If the jurors agree on a verdict, they help the foreperson fill out the Jury Deliberation Form. If not, discussion continues.

2. Tell the juries how long they have to reach a verdict, and then repeat Judge Wanda Wisdom's instructions to the jury before they begin their deliberations.

Judge Wanda Wisdom's Jury Instructions

"Ladies and gentlemen of the jury, you have now heard all of the evidence. I instruct you that if you find that the state has proven beyond a reasonable doubt that the defendant Gold E. Locks entered upon the premises of the Three Bears without having permission or without a legally justified reason, you should find the defendant guilty of the offense of trespassing. On the other hand, if you find that the prosecution has failed to prove, beyond a reasonable doubt, any elements of this crime, you should find the defendant not guilty. You may now retire and commence your deliberations. When you reach a unanimous decision, please return to the courtroom with your verdict."

C. Concluding the Lesson

At the end of the deliberation period, have each foreperson deliver his or her jury's verdict, or lack of verdict, and explain how the group came to its conclusion. Ask:

- Did the jurors pretty much agree on which facts were important and which witnesses to believe in this case? If not, where did they differ?
- Were some people undecided at first? What helped them make up their minds?
- Did anyone say something that helped another juror look at the case in a new way or change his or her vote?
- How did the jury process compare with the group decision making process you used in the NASA game?

- Did the shadow jury reach the same conclusion as the other juries? Do you think that the reasons these jurors were disqualified affected their ability to reach a fair verdict?
- Do you think that having a jury decide was a fair way to reach a verdict in this case?
- What do you see as the advantages and disadvantages of trial by jury?

D. Assessing the Lesson

Using Handout 5-2: Reporting on the Trial, students write a magazine article on the trial of Gold E. Locks. Students may do the assignment individually or work in pairs. The activity can be completed in class or assigned as homework.

Students should address all the elements listed in the writing prompt: the issues in the trial, what the jury decided and why, and advice to future jurors.

Handout 5-1

Jury Deliberation Form

Jury Number _____

Members of the Jury (signatures)

1. _____ 7. _____

2. _____ 8. _____

3. _____ 9. _____

4. _____ 10. _____

5. _____ 11. _____

6. _____ 12. _____

Verdict (check one):

Guilty _____ Not guilty _____

Jury Deliberation Form

Jury Number _____

Members of the Jury (signatures)

1. _____ 7. _____

2. _____ 8. _____

3. _____ 9. _____

4. _____ 10. _____

5. _____ 11. _____

6. _____ 12. _____

Verdict (check one):

Guilty _____ Not guilty _____

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Reporting on the Trial

Create a magazine article about your experience as a juror in the case of Gold E. Locks and the Three Bears. Include the following information in your story:

- Who was on trial? Why?
- What did jurors agree about? What did they disagree about?
- What verdict did the jury reach? Why?
- If it was a hung jury, how were the jurors split?
- If you knew someone who was going to be on a jury, what advice would you give that person?

Write a headline for your story. In the box, print all or part of a quote about the jury process. For example, a juror in your story might say, "The jury process is a good example of group decision making." Then you might print in the box, "good group decision making." Write your story in the space below and on the back of this handout.

(Headline)_____

(Story)_____

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CD-ROM Game

Make Your Case

Game Overview

Summary

Make Your Case is a courtroom trial simulation in which students control the action in a television-like trial. Students play the role of attorneys in a civil case involving a traffic accident between a bicyclist and a driver. The game has been designed to be played by two players or two teams of players. As the game begins, students are challenged to decide what pieces of evidence will be most helpful to their case. Once the trial is underway, they choose what questions to ask witnesses and make objections whenever they spot violations of the rules of evidence during testimony. The trial concludes with the delivery of a verdict and an opportunity for students to interview jurors. Finally, students receive certificates of completion that provide feedback on how they performed as attorneys.

Game Objectives

After playing *Make Your Case* students should be able to:

- *contrast the purposes of opening statements and closing arguments;*
- *explain the differences between direct examination and cross-examination;*
- *identify and apply the rules of evidence;*
- *characterize the roles of the attorneys, the judge, and the jury;*
- *distinguish between the burden of proof in a civil case and a criminal case;*
- *describe the skills that characterize an effective trial attorney.*

Class Time

One to two class periods (depending on preparation of students)

Preparation/Materials Required

CD-ROM Game

- Computer
  - Monitor: SVGA displaying at least 256 colors at 640 x 480 pixels
  - PC (minimum configuration)
    - CPU: 486 running at 66 megahertz (recommended: Pentium)
    - CD-ROM drive: Double speed or faster (recommended: Quad speed or faster)
    - Sound card: 16 bit or better
    - RAM: 8 megabytes
    - Hard drive space: 10 megabytes of free space
    - Operating system: Windows 3.1 or later
  - MacIntosh (minimum configuration)
    - CPU: Quadra or better (recommended: Power PC)
    - CD-ROM drive: Double speed or faster (recommended: Quad speed or faster)
    - RAM: 8 megabytes
    - Hard drive space: 10 megabytes of free space
    - Operating system: System 7.0 or later
- Trial Exhibits
  - one per player/team
    - Exhibit A: Diagram of Accident (p. 47)
    - Exhibit B: Police Report (p. 48)
    - Exhibit C: Deposition: Suzanne Winters (p. 49)
    - Exhibit D: Deposition: Mario Ramirez (p. 50)
    - Exhibit E: Deposition: Lisa Oshima (p. 51)
    - Exhibit F: What Is a Deposition? (p. 52)
    - Exhibit G: When to Object (p. 53)

Installing the Software

Windows

1. In Windows 3.1x, select FILE/RUN from the File Manager. In Windows 95, click the "Start" button and select "Run." Type "D:\SETUP.EXE" (where "D" is the letter of your CD drive). The installer will copy the necessary files to your hard drive and create a "Make Your Case" program group with an icon for this program.
2. The installer installs Apple's QuickTime for Windows™. This software enables your computer to play digital video.
3. To start the program, either let the installer start it for you or double-click the "Make Your Case" icon. The next time you want to run the program, double-click the "MYC" icon in the Program Manager (Win 3.1x) or select it from the "Programs" or "Documents" menus accessible from the "Start" button (Win 95). You do not need to run the installer again, but you do need to have the "Make Your Case" CD in the CD drive.

Macintosh

1. Insert the CD into your CD drive (printed side up). Double-click the "Install 'Make Your Case'" icon to install QuickTime™, if needed, and copy a few files to your hard disk.

CD-ROM Game

2. Depending on what files were installed, you may need to restart your computer. If so, and if your CD drive is the kind that ejects the CD upon restart, reinsert the CD after restarting. To begin the program, open the "Make Your Case" folder on your hard drive, then double-click the "Make Your Case" icon.
3. If restart is not required, the installer will launch the program from your hard drive automatically. The next time you want to run the program, you'll find it in the "Make Your Case" folder on your hard drive. You do not need to run the installer again, but you do need to have the "Make Your Case" CD in the CD drive.

Optimizing Your Computer for Multimedia

Windows

1. Use a non-networked PC with all unnecessary applications closed.
2. In Windows 3.1x be sure the swap file is set to "Permanent" and is the recommended size. To check, double-click on the "386 Enhanced" icon in the CONTROL PANEL; click "Virtual Memory" to see your current settings, and then click "Change" to see the recommended settings. If available, check "Use 32-Bit Disk Access" for better performance. In Windows 95, open the "System" control panel and select the "Performance" tab. Click the "Virtual Memory" button and check the "Let Windows manage my virtual memory settings" option if it is not already checked. Restart Windows for any changes to take effect.
3. The color depth of your monitor (the number of colors it can display) depends on the capabilities of the video card installed in your computer. You can check the color depth in the Windows Setup program (Win 3.1x) or in the "Display" control panel under the "Settings" tab (Win 95). If your monitor is not already set to at least 256 colors (8-bit) at 640 x 480 pixels, set it accordingly and restart Windows. If your video card supports thousands or millions of colors, the video in the program will look appreciably better at those settings.
4. If you have CD-ROM caching turned on, turning it off will greatly increase performance. To disable caching in Windows 3.1x, edit the AUTOEXEC.BAT file so that SMARTDRV.EXE loads before MSCDEX.EXE. To disable caching in Windows 95, open the "System" control panel, select the "Performance" tab, and click the "File System" button under "Advanced Settings." Then select the "CD-ROM" tab and in the "Optimize access pattern for:" dialog use the "No read-ahead" option.

Macintosh

1. If your computer is networked, make sure that file-sharing and program linking are turned off in the SHARING SETUP control panel. Close all unnecessary applications.
2. Be sure that virtual memory is turned off in the MEMORY control panel.
3. In the MONITORS control panel, set your monitor to a resolution of 640 x 480 pixels. If your computer supports thousands or millions of colors at this resolution, the video in the programs will look appreciably better than it will at 256 colors.
4. If you use a CD driver that allows you to enable or disable caching (e.g., CD-ROM Toolkit™), open the control panel for that driver and turn CD-ROM caching off.

Using *Make Your Case*

CD-ROM Game

Introducing the Game

1. *Make Your Case* is designed to be used as a culminating activity with the *Justice by the People* curriculum. The game is based on a fictional civil case in which a bicyclist is suing a driver for damages that occurred when the two collided at an intersection. The bicyclist claims that the driver was speeding and not paying attention to the road. The driver claims that the bicyclist ran a stop sign and failed to make herself visible given the lack of light at the time of the accident. Players take on the role of either the plaintiff or the defense attorney as the case goes to trial. *Make Your Case* is structured as a two-player or two-team game. If you choose to use it with the entire class, you may want to divide students into three groups—two teams of attorneys and a jury. If you choose to use the game this way, you may want to turn off the display of scores and feedback. This can be done at the beginning of the program by selecting the options button.

2. The game may take from 45 to 90 minutes to complete. Selecting the "Quit" button during the game allows users to resume their game at a later time. To decrease the playing time, encourage students to familiarize themselves with the trial exhibits before they begin play. These trial exhibits are included in the game as the "case file."

3. Students will be better prepared to play *Make Your Case* if they have covered the content in Lesson 4: The Trial of Gold E. Locks. You may want to review Handouts 4-1: Rules of Evidence and 4-2: Raising Objections with the class before play begins. Doing so will help students raise appropriate objections during trial testimony, which is the most challenging part of the game.

Playing the Game

1. Students can dive right into *Make Your Case* and start playing, learning as they go. The game begins with an introductory piece in which they are given the case by an attorney who is called away. Players then register their names as representing either the plaintiff (bicyclist) or the defendant (driver). Multiple players can register as teams, after which the game will specify which team member's turn it is to enter the group's next decision into the computer.

   To facilitate play by multiple students, the game is designed so that one team can enter its decisions using the keyboard, the other using the mouse. To select an option using the keyboard, players press the key that corresponds to their selection. For example, to select option "A" in opening statements, students press the letter "A" on the keyboard. To select the same option using the mouse, students click on any part of the text in item "A" or on the "A" itself.

2. Following registration, the judge greets the jury and explains what opening statements are. The attorneys then select evidence that would be good to mention in their opening statements. The statements that follow will vary depending on their choices. Note that during the opening statements and throughout the

CD-ROM Game

trial, players never see the attorneys. They *are* the attorneys. As opening statements are delivered, players receive feedback and earn points depending on how well they opened their cases. As the trial proceeds, students will continue to receive points for making good decisions on behalf of their client. The point totals for each side are displayed on screen throughout the game. These scores reflect the proficiency of the attorneys, not the merits of their respective cases. If you are playing this game in class with a jury, you have the option of turning the scoring display off so the jurors will not be influenced by the scores.

3. After opening statements, two witnesses for the plaintiff (the bicyclist and the police officer) and two for the defendant (the driver and the eyewitness) are called to the stand and questioned. Each witness begins by answering some introductory questions. Players are then given options as to which questions they will ask during both direct examination and cross-examination. Each option moves the witness's testimony down a different path. Once students make their choice between option "A" and "B," questioning of the witness proceeds.

   If players are uncertain as to how a witness might answer a given question, they can select option "C," which allows them to review the case file before making a final choice. The case file contains summaries of the witness's depositions as well as a diagram of the accident, a police report, and a tip sheet titled "When Do I Object?" The items in the case file have tabs, and students can navigate by clicking on the tabs with the mouse or by keying the letter on the tab. To return to the trial, students click on the eyeglasses that say "Trial" or press "T" on the keyboard.

4. A player may object to an attorney's question or a witness's answer at any time during the trial. This can be done by clicking the objection button or typing "O" on the keyboard. After objecting, students have several options, including replaying the last question and checking the case file for a list of appropriate objections. Whenever players raise an objection, they will be prompted to specify what rule of evidence is at issue (relevance, speculation, or hearsay). The judge rules on all objections. If the objection is sustained, or accepted, the player earns 4 points. If it is overruled, or rejected, the player loses 1 point.

   During the first witness's testimony, the game automatically stops whenever an objectionable question is asked and the opposing attorney is prompted to consider taking action. Players can then review the case file description of objections and decide whether they should object or let testimony continue. Later on, players are left on their own to raise objections.

5. Once all four witnesses have undergone direct and cross-examination, the judge gives instructions to the jury on how to apply the law in the case. The trial then ends with closing arguments. Players are given options as to what to emphasize in their closing statements. Each closing argument will only mention items that were introduced as evidence during the trial. Hence, the better players were at introducing evidence in support of their case, the stronger their closing arguments will be and the more points they will earn.

6. Following closing arguments, the jury deliberates the following questions: To what degree, if any, did the defendant cause the plaintiff to suffer damages in the accident? Depending on the defendant's responsibility, how much should he pay the plaintiff? (This amount is calculated by multiplying the defendant's percentage responsibility by the amount of damages suffered by the plaintiff.) Finally, the jury returns its verdict. This verdict is based on how an average jury would be likely to respond to the evidence presented during the trial, and not on the scores achieved by either attorney.

   If you are playing the game with a student jury, you will want to stop the game after closing arguments and allow your jurors to reach their own decision. Their verdict can then be compared with that of the game's jury.

7. After the verdict is delivered, students have the option of interviewing three of the jurors to get some feedback on the trial. The jurors' responses will depend upon the evidence presented during the trial. Finally, players can print out certificates of completion that show how well they did at selecting evidence, choosing lines of questioning, and raising appropriate objections.

Concluding the Lesson

CD-ROM Game

After students have played the game, you may want to discuss some of the following questions with the class:

- What are opening statements and closing arguments? How do they differ?
- What is the difference between direct examination and cross-examination?
- Who raises objections in a trial and why? Who rules on objections?
- What did the jury have to decide in this case? What burden of proof did the jurors have to apply in reaching their verdict?
- What skills does an attorney need in trying a case such as this one?

CD-ROM Game

Answer Key

Opening Statements

The correct selections are 2, 3, 5 and B, D, F.

Trial

Correct answers are underlined.

Bicyclist Questioned by Plaintiff Attorney

A) Was your neighbor looking at you when you waved to her?

"If you hadn't waved at her, do you think she would have waved to you?"

Objection – relevance/speculation (witness can't know what would have happened)

B) Was Mr. Ramirez looking at the road?

"When you first saw Mr. Ramirez, was he concentrating on his driving?"

Objection – speculation (witness can't know what was going on inside driver's head)

A) Have you ever been injured in a bike accident before?

"Ms. Winters, have you ever been injured in a bike accident before?"

Objection – relevance

B) What injuries did you suffer in this accident?

"Did your boyfriend seem upset about what happened?"

Objection – relevance

A) What was the damage to your bike?

"Why did you buy a touring bike instead of a mountain bike?"

Objection – relevance

B) How did you get your bike home after the accident?

"After the accident, how did you get your bike home?"

Objection – relevance

Bicyclist Questioned by Defense Attorney

A) Do you need to wear glasses?

No objections

B) Did you have a light, reflectors, or reflective clothing?

"Ms. Winters, isn't it true that this whole accident could have been avoided if you had taken some basic safety precautions?"

Objection – speculation (witness can't guess what might have happened)

A) Were you in a hurry to get home?

No objections

B) Have you taken other routes from work to home?

"Do you think you would have gotten into an accident if you had taken one of these other routes on March 3rd?"

Objection – speculation/relevance

A) Was your bike really worth $650?

"Why did you buy such an expensive bike?"

Objection – relevance

B) Do you own any other bikes?

"Ms. Winters, do you own any other bikes?"

Objection – relevance

A) What did you say when you were accused of not following the rules of the road?

"So then, he was concerned that you might be hurt?"

Objection – speculation/relevance

B) Did you tell the defendant that you were okay?

"So then, he was concerned that you might be hurt?"

Objection – speculation/relevance

Police Office Questioned by Plaintiff Attorney

A) Did you measure the skid marks at the intersection?

"Do you think that the defendant was driving faster than the speed limit?"

Objection – speculation

B) Did you measure the length of the scratch on the defendant's vehicle?

"Have you ever seen a scratch this long in any other accident you've investigated?"

Objection – relevance

A) Did you give the driver a ticket?

No objection

B) Did you give the bicyclist a ticket?

No objection

Police Office Questioned by Defense Attorney

A) How do you know that the skid marks were made by the defendant's car?

No objection

B) How do you know that the scratch on the car was caused by this accident?

"Do *you* own a car?"

"What kind of car do you own?"

Objection – relevance

A) Was it dark at the time of the accident?

"Officer Harrison, given that it was dusk, do you think this accident could have been avoided if the plaintiff had used a light and reflectors?"

Objection – speculation

B) Was it dark when you arrived at the scene?

No objection

Driver Questioned by Defense Attorney

A) How did the plaintiff respond when you asked if she was okay?

No objection

B) How did the plaintiff respond when you accused her of running the stop sign?

"Was she angry at you?"

Objection – speculation (witness can't know what the bicyclist was feeling)

A) Had you driven through this intersection before?

No objection

B) Did you talk with anyone who witnessed the accident?

"What did she say?"

Objection – hearsay

Driver Questioned by Plaintiff Attorney

A) Were you in a hurry?

"What movie were you going to see?"

Objection – relevance

B) Were you hungry?

"Prior to the accident, when did you last eat?"

Objection – relevance

"What did you have for lunch?"

Objection – relevance

CD-ROM Game

CD-ROM Game

"At the time of the accident, were you hungry?"

Objection – relevance

A) Were you talking on a car phone at the time of the accident?

"Are you usually late for your dates with her?"

Objection – relevance

"So are you late for things in general or just for dates with your girlfriend?"

Objection – relevance

B) Do you usually talk on the phone when you drive?

"Don't you think it would be safer if you didn't talk on the phone while you drive?"

Objection – speculation/relevance

A) Was the construction project a distraction?

"In fact, sir, if you hadn't looked at your building, you would have seen Ms. Winters sooner and avoided the accident, isn't that true?"

Objection – speculation

B) Was the construction project running on schedule?

"Do your projects usually run on schedule?"

Objection – relevance

A) Had you checked your speedometer?

No objection

B) Had you had your vision checked recently?

"Were you wearing sunglasses at the time of the accident?"

Objection – relevance

"Do you ever where sunglasses?"

Objection – relevance

Eyewitness Questioned by Defense Attorney

A) Did the plaintiff come to a complete stop at the stop sign?

No objection

B) Did you also have a stop sign for the direction you were coming from?

"Ms. Oshima, did you also have a stop sign for the traffic in your direction?"

Objection – relevance

A) Did the other woman say why she couldn't wait for the police to come?

"What, if anything, did the woman say about why she couldn't wait for the police?"

Objection – hearsay

B) Did the other woman say that the defendant ran the stop sign?

"What, if anything, did the woman say about who might have caused the accident?"

Objection – hearsay

Eyewitness Questioned by Plaintiff Attorney

A) What did you hear as the defendant's car approached the intersection?

No objection

B) Do you ever ride your bike on Homer crossing Main?

"Do you ride a bicycle, Ms. Chen?"

Objection – relevance

"Have you ever ridden your bicycle across the intersection of Main and Homer?"

Objection – relevance

A) Did you talk to the police officer?

No objection

B) Did the other witness say the car was speeding?

"What, if anything, did she say about the speed of the defendant's car?"

Objection – hearsay

CD-ROM Game

Closing Arguments

Both selections for each player are valid. The option that yields the most points is the one that is best supported by the evidence introduced during the trial.

Index

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Exhibit A

Diagram of Accident

Diagram of Accident

A B C D E F G

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Index

A

STATE OF CALIFORNIA
TRAFFIC COLLISION REPORT
CHP 555 PAGE 1 (Rev. 8/97) OPI 042

SPECIAL CONDITIONS	# INJURED / # KILLED	LOCAL REPORT #
CITY		JUDICIAL DISTRICT
COUNTY	REPORTING DISTRICT	BEAT
COLLISION OCCURRED ON		
S M T W T F S	MO. DAY YEAR	TIME / NCIC # / OFFICER I.D.

SKETCH

INDICATE NORTH

MISCELLANEOUS

B

PARTY 1	DRIVER'S LICENSE NUMBER	STATE	CLASS
DRIVER ☐	NAME (FIRST, MIDDLE, LAST)		
PEDESTRIAN ☐	STREET ADDRESS		
PARKED VEHICLE ☐	CITY / STATE / ZIP		
BICYCLIST ☐	SEX / HAIR / EYES / HT / WT / BIRTHDATE / RACE		
OTHER ☐	HOME PHONE ( )	BUSINESS PHONE ( )	
	INSURANCE CARRIER	POLICY NUMBER	
	DIR. / ON STREET OR HIGHWAY	SPEED	
YEAR / MAKE / MODEL / COLOR		LICENSE NO. / ST.	
OWNER'S NAME	☐ SAME AS DRIVER		

DESCRIBE VEHICLE DAMAGE
☐ UNK. ☐ NONE ☐ MINOR
☐ MOD. ☐ MAJOR ☐ TOTAL

SHADE IN DAMAGE AREA

C

PARTY 2	DRIVER'S LICENSE NUMBER	STATE	CLASS
DRIVER ☐	NAME (FIRST, MIDDLE, LAST)		
PEDESTRIAN ☐	STREET ADDRESS		
PARKED VEHICLE ☐	CITY / STATE / ZIP		
BICYCLIST ☐	SEX / HAIR / EYES / HT / WT / BIRTHDATE / RACE		
OTHER ☐	HOME PHONE ( )	BUSINESS PHONE ( )	
	INSURANCE CARRIER	POLICY NUMBER	
	DIR. / ON STREET OR HIGHWAY	SPEED	
YEAR / MAKE / MODEL / COLOR		LICENSE NO. / ST.	
OWNER'S NAME	☐ SAME AS DRIVER		

DESCRIBE VEHICLE DAMAGE
☐ UNK. ☐ NONE ☐ MINOR
☐ MOD. ☐ MAJOR ☐ TOTAL

SHADE IN DAMAGE AREA

D E F G

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A

B

C

D

E

F

G

Suzanne Winters' Deposition Summary (Bicyclist – Plaintiff)

Late on the afternoon of March 3, Ms. Winters was riding her bike home from work. She forgot to feed her dog that morning and was in a hurry to get home. Her bike did not have a light or reflectors, and she was wearing dark clothing. She went down Homer Street and stopped at the stop sign at Main Street. She saw her friend, Lisa Oshima, across the street and waved to her. Then she checked for oncoming traffic before starting out into the intersection.

As she was riding across the intersection her bicycle was hit by Mr. Ramirez's car. She was knocked to the ground and injured her wrist. Mr. Ramirez came over and told her that she should have stopped at the stop sign, and she did not answer.

Ms. Winters believes that Mr. Ramirez was driving faster than the speed limit. Just before the accident, she saw him looking at a nearby construction project.

Ms. Winters has perfect vision.

Ms. Winters' bicycle, which she had bought for $575 two weeks before the accident, was damaged beyond repair. Several accessories that cost an additional $75, including a tire pump and water bottle, were not damaged in the accident. The medical bill for treating her sprained wrist and abrasions was $150.

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Mario Ramirez's Deposition Summary (Driver - Defendant)

A

B

C

Mr. Ramirez left work at 6:15 p.m. to pick up his girlfriend and take her to a movie. He turned on his headlights because it was getting dark. Just before 6:30, he called his girlfriend on his car phone to tell her that he was running half an hour late. As he was driving down Main Street toward Homer, a bicyclist (Suzanne Winters) darted out in front of his car. He slammed on the brakes, and the car skidded to a stop. Ms. Winters' bicycle hit his car, causing a long scratch in the fender. Mr. Ramirez believes that he was driving at the speed limit but he does not recall checking his speedometer.

He got out of his car and went over to Ms. Winters to see if she was all right. He told her she should have stopped at the stop sign, and she did not respond. He also spoke to a woman at the scene who said Ms. Winters had failed to stop at the stop sign. He did not get that woman's name or address and has not been able to locate her.

Mr. Ramirez designed and oversaw the construction of a building on the corner of Homer and Main. The building was under construction at the time of the accident. Mr. Ramirez looked at the building briefly as he approached the intersection.

Mr. Ramirez has perfect vision.

D

E

F

G

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Lisa Oshima's Deposition Summary (Eyewitness)

A

B

C

D

At the time of the accident, Ms. Oshima was walking down Homer Street toward Main. She saw the Plaintiff, who is her neighbor, on her bicycle on the other side of the street. She saw the Plaintiff come to the stop sign, but she is not sure whether the Plaintiff came to a complete stop. The Plaintiff did not take her feet off the pedals, according to Ms. Oshima.

As the Plaintiff started across the intersection, Ms. Oshima heard the screeching tires of an approaching car. She then saw the Plaintiff get hit by the Defendant's car. She went over to see if the Plaintiff was injured.

Shortly after the accident, Ms. Oshima talked to an unidentified woman who also saw the accident. That witness said that the Plaintiff should have stopped at the stop sign. The unidentified witness also said that the driver was going "way too fast."

E

F

G

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A
B
C
D
E

What Is a "Deposition"?

Before a case goes to trial, the attorneys may question witnesses. The witnesses testify under oath and their testimony is typed up. The resulting "depositions" are made available to both sides in the case. Depositions are one of several methods attorneys use to gather facts and evidence before a case proceeds to trial. This fact-gathering process is known in the law as "discovery."

F
G

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A
B
C
D
E
F

When To Object

Attorneys must follow certain "rules of evidence" when they question witnesses and present documents at a trial. These rules are intended to give the jury accurate and reliable information.

If an attorney asks an improper question, the other attorney may object. There are three objections that you need to know and understand for purposes of this trial:

`Relevance:` An attorney may only ask a witness for information that has to do with the bike accident.

Examples:

"Why did you ride your bike instead of taking the bus?"

"After the accident, how did you get your bike home?"

`Speculation:` It is improper for an attorney to ask the witness to guess what might have happened.

Example:

"Do you think things would have been different if ...?"

It is also improper to ask a witness what someone ***else*** was thinking or feeling.

Examples:

"Was he concentrating?"

"Was he concerned?"

"Was he upset?"

`Hearsay:` In most cases, a witness is not allowed to testify about what they heard someone else say.

Example:

"What did she say about ...?"

G

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Working with Volunteers from the Legal Community

Many members of the legal community are willing and eager to visit classrooms and help teach students about the legal system.

A visiting volunteer can:

- help make the lesson come alive;
- provide expertise and experience;
- serve as a role model.

Finding Volunteers

To find a volunteer, you might try the following:

- Contact the Foundation of the American Board of Trial Advocates.
- See whether your school or school district keeps a list of volunteers from the legal community who are willing to visit classrooms.
- Ask other teachers who have taught similar projects for recommendations.
- Check with your local bar association.
- Call your local Council for the Social Studies.

Making Arrangements for a Classroom Visit

Once you have found a resource person, give your volunteer plenty of advance notice as to your preferred time for the visit. Calling two or three weeks before the lesson is a good idea. Before calling, check to see that your plans do not conflict with other school activities and that you will have access to any equipment you will need (e.g. TV and VCR). Also, be sure to mail your volunteer a copy of each of the handouts and guidelines listed in Lesson 4 a week before he or she visits the class.

When you call:

- introduce yourself, describe the unit you are teaching, and explain how the person can help;
- be specific about details—the date and time you would like the resource person to visit and the length of the class period;
- describe the location of school parking;
- tell the visitor where to report;
- explain school rules about visitors on campus and any security arrangements.

To avoid misunderstandings, put the arrangements in writing immediately by sending a letter of confirmation to the resource person. Include the date and time that you have agreed on and the length of time you expect the volunteer to visit. Send a copy to your principal and other appropriate school staff members.

Preparing the Visitor for Your Class

About a week before the visit, contact your volunteer again by phone or mail. In the communication, you will want to:

- describe the class—the ages of the students, the grade level, and the size;
- briefly outline the topics addressed in the lesson the volunteer will be teaching;
- describe the resource person's role in the lesson and the kind of knowledge he or she will be expected to bring to the classroom.

Preparing Your Class for the Visit

Before the visitor arrives, explain to the class who is coming and a little about the person's background. Be sure the class learns the visitor's name.

- Have the class think of one or two questions they would like to ask the visitor.
- Assign one or two students to meet the visitor in the school office and bring him or her to the classroom.
- Remind the class that unexpected events sometimes keep things from working out the way you have planned.

After the Visit

After the visit take time to review with the class what they learned from the resource person. In what ways did having a volunteer from the legal community in the classroom help them better understand how a trial works?

Then ask your students to write thank-you notes to the visitor, thanking that person for taking time to meet with the class. Enclose these notes with your thank-you letter.

Making the Most of Your Visit

1. Before you meet the class, explain your background to the teacher so that he or she will not have unrealistic expectations. Be frank about your specialty and your experiences.

2. Let the students know that attorneys and other members of the legal community have different specialties, and that although you want to answer as many of their questions as possible, if a question is outside your area of expertise, you would rather not answer it than give the wrong answer.

3. Be friendly and relaxed. Use humor to put the class at ease.

4. Treat the students with respect. Your visit is important to them and may contribute to their lasting impression of the law and the legal community.

5. The students will be interested in you and your work. To begin, you might tell them a little about how and why you became interested in the law and in your particular area of specialization.

6. Part of your role in the classroom is to help students understand how the legal system works. But to do this, you will need to speak in common terms, not legalese.

7. Avoid lecturing. Encourage students to ask questions and share experiences and observations.

8. When possible, give students concrete examples drawn from personal experience to illustrate important points or legal concepts.

9. Watch students' facial expressions to see whether they understand what you are telling them. Occasionally stop to ask if what you have said is clear and if students have any questions.

10. Expect the teacher to play a major role during your visit by helping to guide the class through the lesson sequence, to clarify questions and answers, and to keep order.

11. You do not need to defend every aspect of the legal system. If students raise questions or express doubts, you can defend strong points, admit weak ones, suggest solutions, and offer differing viewpoints. Let students know that people often view aspects of the legal system differently.

12. Remember that the students are studying a particular topic. Make your information relevant. Don't let other topics take too much of your time.

13. Have fun. Enjoy the students. Help them see how the information that you bring touches their lives.

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Reading 1

The History of Conflict Resolution and Trial by Jury

The U.S. jury system has its source in English history. Before there were juries, there were three general methods of "trial" in England.

Trial by Oath

The first simply required the accused person to take an oath, swearing to a fact. In those days, a person's oath carried great weight. In fact, the word "jury" derives from the term "jurare," which means to swear, to take an oath. Those with good reputations who were accused of crimes had only to swear that they were innocent to be acquitted.

If others swore against the accused, however—in effect challenging the truth of the accused's oath—a compurgation was necessary. The accused had to bring in 11 supporters called compurgators, making 12 people in all who would be willing to take an oath on behalf of the accused. The compurgators did not swear that what the accused said was true. They served more as character witnesses, swearing that the accused was considered a credible person. If the accused was found guilty, the compurgators might also be punished because they were then implicated in the defendant's guilt.

These kinds of trials had no juries, and often citizens did not want to be chosen for "jury duty" as compurgators because they faced the possibility of punishment for "incorrect" verdicts. As trial by jury began to develop, the situation for the jurors did not improve much. When the courts were under royal control, the jurors were often punished if they decided against the king. Often, "incorrect" jurors had their property seized, were imprisoned, or were separated from their families as punishment for not "properly" fulfilling their duties as jurors. And since the jurors were still considered witnesses, they were also subject to punishment for perjury.

Trial by Ordeal

An accused who was a repeat offender, or who was unable to find enough compurgators willing to swear to good character, would be subjected to a trial by ordeal, some sort of physical test, the results of which were supposed to indicate guilt or innocence. Unfortunately, the trials were usually designed so that, in proving innocence, the physical ordeal often resulted in bodily harm or even death to the accused.

For instance, in a trial by hot water, a ring might be suspended by a string in a cauldron of boiling water, either wrist-deep or elbow-deep, depending upon the severity of the crime. The accused was first "cleansed" by prayer and fasting and then was instructed to reach into the boiling water to grab the ring. If the accused's hand and arm were burned, that was considered a sign of guilt. If they were not burned, the obvious miracle was treated as a sign of innocence.

In a trial by cold water, used in the American colonies at the time of the Salem witch trials, the accused was bound and placed in a body of water that had been purified by prayer. An accused who sank was considered innocent because the water would "accept"

one who was pure; floating indicated that the accused's body was polluted by sin and the water was rejecting it. Apparently the object of this ordeal was not always to drown the innocent or the guilty—the accused might be removed from the water after sinking or floating for a while.

There were various types of trial by fire. Some entailed having the accused show innocence by either walking across hot coals or holding a white-hot iron rod. In these trials, the accused was guilty if burned and innocent if not burned.

Sometimes the test was not whether the person was burned, but how the burn healed after a certain period of time. For instance, if the burn healed well after a few days, it was a sign of innocence because the body was "clean." But if the wound showed signs of infection, it was considered a sign that the body was defiled by evil.

Not all trials by ordeal were so dramatic. For example, one trial consisted only of taking a large piece of bread from an altar and eating it. An accused who could eat the bread without difficulty was considered innocent; choking or gagging was thought to show an evil presence in the body rejecting the bread. Another less dramatic trial required the accused to wear a blindfold and choose between two pieces of wood, one of which had a cross drawn on it. If an accused selected the one with the cross, it was considered that divine intervention had proved innocence.

One common aspect of all of the trials by ordeal was that the outcomes were often a matter of chance or placed the accused in a "no-win" situation. To prove innocence, an accused had to risk death or serious bodily injury. Yet, since survival was often considered a sign of guilt, an accused lucky enough to survive the ordeal was often immediately judged guilty and put to death.

Most of these trials had a religious context and were conducted by clergymen or other church officials. Most were preceded by purifying prayer for either the accused or the object used in the trial—water, bread, etc. If the trial required purification of the body before the ordeal, the accused was often sequestered and forced to fast and pray for up to three days prior to the trial.

Trial by Jury

Trial by jury did not fully come into being until the trial by ordeal was abolished. The move to jury trial took longer for criminal matters than for civil cases, since trials by ordeal were used mainly to resolve common crimes or offenses against the king, the state, or the church. Corrupt rulers were known to "plant" witnesses or jurors to manipulate the outcomes of trials.

To guard against this, the church began to support the principle that jurors should have no interest in the case at issue. With the church's influence, the courts began to insist on impartiality in jurors. The separation of the roles of witness and juror, and the desire for protection against royal manipulation, combined to spark the evolution of the system of trial with an impartial and unbiased jury.

New developments brought additional changes to the nature of the jury. For instance, when attorneys began to bring in witnesses to corroborate facts in a case, it was no longer necessary for

the jurors to know the accused. And witnesses began to testify before the judge as well as the jury, not before the jury alone.

Since both the judge and the jury were to hear the facts, it became more desirable for all persons to be at the same place, hear the same facts, and base their decisions solely upon the information presented in open court, instead of having some persons on the jury who knew more about the case than others. Gradually, juries came to decide only questions of fact, while judges ruled on questions of law.

By the time the colonists were settled in America, the right to trial by jury was considered essential. British rulers attempted to deny the colonists this right but were met by strong resistance. The importance and value the colonists placed on this right was clearly evidenced in the Declaration of Independence and in the Sixth and Seventh Amendments to the U.S. Constitution. Today the jury is a mainstay of America's legal system.

The Jury System

Overview

Adult U.S. citizens representing all races, religions, occupations, and temperaments can become jurors, and more than five million Americans are called for jury duty every year.

To build a jury, a jury commission or town official randomly selects names from such sources as voter lists, tax rolls, telephone directories, driver's license registrations, and utility lists. In some states, jurors can volunteer for service. Those selected receive a summons to report for jury duty on a specific date.

When they arrive in court, potential jurors are questioned by a judge, a lawyer, or both, through a process called voir dire, a French phrase translated as "to speak the truth." The voir dire process gives the judge and attorneys a chance to choose jurors who are not prejudiced. It is important that jurors not know the lawyers or each other. It is also important that they not have strong opinions about the issues—or premature views about the defendant's guilt or innocence.

The number of jurors selected tended to be 12 for at least 800 years, since the time of England's Henry II. However, in recent years, the number of jurors has been 6, 8, or 10 in some states.

Once the jury is selected, the judge explains the jury process. After that, the floor belongs to the lawyers. There are generally two—one for each side. Each researches the facts, builds a case, and brings in witnesses and evidence so the jury can determine the facts.

The judge presides over the trial, ensuring that it unfolds properly and fairly, sometimes stopping the action to make sure the process is clear and just. Jurors then convene in the jury room to deliberate. After considering the facts carefully, they reach a "determination," or verdict. If the jury cannot reach a verdict, the trial may have to be repeated.

In most criminal cases, jury verdicts must be unanimous. While unanimous verdicts may not be required in civil cases, at least 75 percent of the jurors are usually expected to agree.

The Jury List

Potential jurors are selected from a master list, compiled by the state from voter registration lists, driver's licenses, and other sources. The ideal master list should include all persons in the community who are eligible for jury duty. In practice, however, some eligible persons, for instance those who do not vote or drive, are not on the list. From the master list, communities often prepare a qualified list from questionnaires filled in by those on the master list. Potential jurors are summoned for jury duty.

A jury summons is a legal document requiring a person to report to the court at a particular time and place. It is an important document that requires careful reading and timely response.

Term of Service

Jurors serve for a specified time frame. In some places, prospective jurors report to the court for one or two weeks. From this group, known as the jury pool,

some are selected to be interviewed for jury panels, from which jurors are selected to serve for a particular case.

A person summoned must report each day for the specified period whether selected for a trial or not; a person selected may serve on several trials. If a trial continues beyond the specified period, jurors must serve until the trial ends.

The more modern trend is to require jurors to serve for "one day or one trial." This practice spreads jury service among more persons and lessens the time period for those who are selected to serve on juries.

Selecting the Jury

Voir dire—the process of selecting the jury—is critical to the jury's impact on the case. Through voir dire each party has a chance to make sure the jurors will be fair. Potential jurors are usually questioned in the presence of the judge by attorneys representing each party. The purpose is to determine impartiality, bias or prejudice, and objectivity. In some jurisdictions the judge asks the questions.

Obviously, the parties each want a jury that will be most likely to decide in their favor. Each tries to identify those individuals who would be beneficial to the other party, then tries to remove as many of them as possible by the use of two types of challenges, also called strikes.

The first is a challenge for cause, made when there is a valid reason for not having someone serve on a particular jury. The person, for example, may know one of the parties, or may have some experience or belief that tends to favor one side, or may not have been truthful in answering a question. A person who lies can be charged with perjury, since voir dire hearings are official judicial proceedings, which occur under oath.

The second is a peremptory challenge, used by an attorney to remove a potential juror without having to give a reason. Both sides are given a certain number of peremptory challenges. Both sides use their peremptory challenges to eliminate persons who may be detrimental to their own cases. The goal is to select a fairly neutral jury.

Although peremptory challenges give the attorneys great latitude, there are limitations on their use. For instance, some criminal defendants have alleged that prosecutors improperly used their peremptory challenges in a discriminatory manner to remove potential jurors based upon such personal characteristics as race, age, sex, or religion.

Where relevant, personal characteristics may be a legitimate reason for a person's removal. For instance, a potential juror who believed for religious reasons that no one should ever take a dispute to court could be challenged for cause. But removal becomes discriminatory—and unconstitutional—when the characteristic that is the basis for removal is not relevant. The race and sex of potential jurors can never be relevant.

The Jury Trial

Role of the Judge

The role of the judge is to determine the law that applies to a particular case. For example, "defamation," or harm to a person's reputation, occurs "when a person makes a false statement that is communicated to a third party, causing harm to the plaintiff." The judge, in the jury instructions, would state the law and define the aspects of it that pertain to the case at hand. The judge might note that the defamatory communication must be made to someone other than the plaintiff. The judge might explain that the harm consists not of offending the plaintiff but of hurting the plaintiff's reputation in the eyes of the other person. The judge would also instruct the jury that truth is a defense to defamation. The statement must be false. A true statement, even if harmful, is not defamatory.

Role of the Jury

The role of the jury is to determine the facts in dispute and apply them to the law. Suppose a garage owner sues Justin Smith for defamation after Justin brings a car to the garage and tells the owner "Your mechanics ruined my motor" in front of other customers. During the trial, the garage owner brings in facts to refute the motorist's story, and the defendant insists that the motor is ruined. For the garage owner to win, the jury must find that the statement was made, that it was false, that persons other than the garage owner heard it, and that as a result the garage owner's reputation suffered a loss.

Steps in a Trial

The following summarizes the steps in both civil and criminal trials. Note that the opening statements and closing arguments are not evidence. They are the attorneys' presentations of evidence that they want the jury to consider from the witnesses, documents, and other exhibits brought out during direct and cross-examinations.

1. Opening Statements

Opening Statement by Plaintiff or Prosecutor Plaintiff's attorney in civil cases, or prosecutor in criminal cases, describes the evidence to be presented as proof of the allegations—unproved statements—in the complaint or indictment. This often involves a summary or chronological overview of the important facts and a brief statement of what witnesses or documents will show to prove or disprove disputed facts.

Opening Statement by Defense Defendant's attorney similarly explains evidence to be presented to deny the allegations made by the plaintiff or prosecutor.

2. Presenting the Evidence

Direct Examination by Plaintiff or Prosecutor Each witness for the plaintiff or prosecution is questioned. Other evidence, such as documents or physical evidence supporting the plaintiff or the prosecution, is presented. Skilled attorneys let the witness be the focus of attention while they remain in the background.

Cross-examination by Defense The defense has the opportunity to question each plaintiff or prosecution witness. Because cross-examination is an attempt

to break down the story or to discredit the witness in the eyes of the jury, its results can be quite dramatic.

Motions If the prosecution's or plaintiff's basic case has not been established from the evidence introduced, the judge can end the case by granting the defendant's motion to dismiss in civil cases or by entering a directed verdict of acquittal in criminal cases.

Direct Examination by Defense Each defense witness is questioned by lawyers for the defense, similar to the direct examination by plaintiff or prosecutor.

Cross-examination by Plaintiff Each defense witness is cross-examined by the plaintiff's attorney or prosecutor, similar to the cross-examination by defense.

3. Jury Instructions

The judge explains rules of law to consider in weighing the evidence. The prosecution, or the plaintiff in a civil case, must meet the burden of proof in order to prevail. In a criminal case this burden is very high. The prosecution must set out such a convincing case against the defendant that the jurors believe beyond a reasonable doubt that the defendant is guilty. In a civil case, the plaintiff must prove the case by a preponderance, or greater part, of the evidence.

In some courts all or part of the jury instructions are given before the closing statements of the lawyers, so that the jury will know the law that must be applied to the facts and arguments made by counsel. In other courts the instructions are given directly before jury deliberations begin.

4. Closing Arguments

Closing Argument by Plaintiff or Prosecutor The prosecutor or plaintiff's attorney reviews all the evidence presented, notes uncontradicted facts, states how the evidence has satisfied the elements of the charge, and asks for a finding of guilty in criminal cases or a verdict for the plaintiff in civil cases.

Closing Argument by Defense As with the closing statement by prosecution or plaintiff, the defense asks for a finding of not guilty in criminal cases or a verdict for the defendant in civil cases.

Rebuttal Argument The prosecutor or plaintiff can usually reserve part of the time allowed for the closing statement to make additional remarks to counteract the closing statement of the defense.

5. The Verdict

In most states, the jury's decision must be unanimous in criminal cases, although the U.S. Supreme Court permits 9–3 verdicts in some cases in which the death penalty cannot be given.

Not all states require unanimous verdicts in cases involving misdemeanors, actions punishable by less than one year in prison. At least 75 percent of the jurors are usually expected to agree in civil cases.

Rules of Evidence

There are two purposes for rules of evidence: to make it possible to ascertain the truth and to ensure that the trial is conducted fairly and economically. Rule 102 of the Federal Rules of Evidence, used in the federal district courts, states that "These rules shall be construed to secure fairness in administration, elimination of unjustifiable expense and delay, and promotion of growth and development of the law of evidence to the end that the truth may be ascertained and proceedings justly determined."

Of course, people differ in their opinions as to how truth should be measured or judged, and what are fair and economical proceedings.

Truthfulness

Truthfulness of documents and testimony is a matter primarily of accuracy, credibility, and completeness. What characteristics make a witness more believable or less? How accurate is a document, and what does it prove?

Written rules of evidence codify some generally accurate indicators of truthfulness. For example, a witness's in-person testimony gives the judge or jury the chance to assess the demeanor of the witness. Out-of-court statements, even if written and sworn to in detail, may be less trustworthy.

And the judge or jury is interested in what the witness has to say based on personal experience, not on rumors the witness has heard from someone else or from suggestions the witness picks up in court. Therefore, leading questions on direct examination, hearsay, secondhand information, and opinions from those who are not experts are generally banned as untrustworthy.

Fairness and Economy

Concepts of fairness and economy are important because they help keep the truth in perspective. These concepts include such characteristics as relevance and prejudice.

For example, it may be that a defendant's relative is under indictment for working for "the mob," but unless that fact is shown to be related or important to the case, it should be excluded from evidence as irrelevant. Similarly, a plaintiff may be divorced and may have lost custody of children because of abuse. But such a fact, even if somewhat relevant to the issues in a case, might be excluded at trial so that it will not create unfair prejudice.

In American courtrooms, elaborate rules regulate the admission of evidence. These rules are designed to ensure that the truth is found and that both parties receive a fair hearing. Accordingly, the rules allow evidence for which the witness has firsthand knowledge and exclude evidence that is irrelevant, untrustworthy, or unfairly prejudicial.

Form of Questions

A leading question is one that suggests an answer. Leading questions are not permitted during direct examination because the person asking the question is not permitted to suggest the answer

to it. Direct questions are generally phrased to evoke the story or facts in the witness's own words on the basis of actual experience or observations.

Example of a direct question: Mr. Bryant, can you please tell us what happened to you on the night of July 23rd?

Example of a leading question: Mr. Bryant, isn't it true that you were drinking on the night of July 23rd?

Firsthand Knowledge

Witnesses generally must have directly seen, heard, or experienced whatever it is they are testifying about.

Witness Opinions

As a general rule, witnesses may not give their opinions. They should confine their testimony to telling the facts—what they did, saw, heard, smelled, etc.

However, witnesses who have special knowledge or experience may be qualified as "expert witnesses." Expert witnesses are allowed to express opinions about their areas of expertise.

Hearsay

Hearsay is an out-of-court statement offered to prove the truth of what is asserted in the statement. For example, suppose a witness says, "I heard that Darryl Bryant has a criminal record." This is hearsay if offered to prove that Darryl Bryant has a criminal record. "I was told . . . ," "I heard . . . ," and "I was informed . . ." are examples of typical hearsay statements.

As a general rule, hearsay is not permitted as evidence in a trial. However, there are many exceptions, and hearsay is sometimes permitted in an actual trial when it is shown to be reliable. For instance, a "dying declaration," made by a person who believed death was near, is considered to be more reliable than ordinary hearsay and may be admitted as evidence.

Relevance

Only relevant testimony and evidence may be presented. Irrelevant evidence is that which has nothing to do with the issues in the case. For example, to ask witnesses to an alleged crime if they have read any good books lately would, in most cases, disclose facts worthless for a jury or judge to consider.

Introduction of Physical Evidence

Any physical evidence, such as documents or photographs that either side wishes to have considered by the judge or jury, may be introduced by

- asking the judge to have the item marked for identification (for example, "Your Honor, I ask that this letter be marked for identification as 'Defendant's Exhibit A'");
- showing the item to opposing counsel, who may object;

- asking the witness on the stand to identify the item and relate it to the issues at trial (for example, "Mr. Kay, I show you what has been marked 'Defendant's Exhibit A.' Could you please tell us what it is?");
- offering the item into evidence (for example, "Your Honor, I offer this letter for admission into evidence").

Contradictory Testimony

If testimony contradicts facts stated in previous testimony or statements, a lawyer can impeach the witness by comparing the present and prior statements and pointing out the contradictions. The attorney does not prove that one statement is closer to the truth than the other, but rather that the witness has told two different stories and should not be believed. Thus, impeachment calls into question the truthfulness of the witness.

An attorney on cross-examination can also impeach a witness by pointing out bias. For example, when cross-examining a defense witness who in direct testimony has contradicted the plaintiff's story, the plaintiff's attorney asks, "Isn't it true that you have been angry with the plaintiff and that the two of you haven't spoken for 10 years?"

Reading 5

Reaching a Verdict

In general, the party bringing the claim, or charging someone with a crime, has the burden of proof—the obligation of proving the facts on which the lawsuit or criminal prosecution is based.

Burden of Proof

In a civil case, the burden of proof is usually the preponderance of the evidence. Preponderance means the greater part, or at least slightly more than half. In other words, in order to find for the plaintiff, the jury must believe that the facts are more in favor of the plaintiff than the defendant. If the jury cannot decide whom the facts favor (i.e., the facts favor each side equally), or if the jury finds the facts favorable to the defendant, the defendant wins.

In a criminal case, the prosecution must prove its case beyond a reasonable doubt. This does not mean that the jury must be 100 percent certain that the defendant is guilty but that any doubts that jurors have about guilt must be unreasonable. For teaching purposes, an unreasonable doubt may be defined as a doubt for which you can't give any reason.

Jury Deliberations

Jury deliberations are critical guarantees of our justice system and our democratic system of government. Once instructed by the judge, juries are left on their own to determine the facts of the case, to apply these facts to the law, and to make decisions about the liability, guilt, or innocence of the parties. Juries, realizing both their independence and their high responsibility, take their work seriously.

Few jurors come to court knowing how to deliberate and reach a verdict. For that reason, judges instruct them on how to decide the facts of the case. The judge usually reads the instructions to the jury. If the jurors later want clarification about any instruction, part or all of the instructions are repeated.

A typical jury begins its work by electing a foreperson to orchestrate the jury's deliberations. The foreperson will often start by polling the jurors on their preliminary ideas about liability or the guilt or innocence of the parties. This may be done either by secret ballot or by asking the jurors in turn to give their views.

Next, the jury will examine the facts to determine whether the elements of the case have been proved or disproved. Jurors will discuss their recollections and review documents and physical evidence presented during the trial. In some jurisdictions, jurors are not permitted to take notes during trial on the theory that a written observation may gain undue weight. This is because jurors are instructed to rely on their recollections of the evidence during their deliberations. Other jurisdictions, however, do allow note taking.

The jurors' recollections must be set out, compared, and reconciled. Jurors continue to vote and discuss the evidence until a verdict is reached or there is a hung jury, a jury that cannot agree on a verdict. Often the judge will send an undecided jury back for further deliberation.

If the jury cannot reach a verdict, the judge declares a mistrial. The plaintiff or prosecutor may then choose to retry the case, seek a settlement or plea agreement, or drop or dismiss the case.

It is common for judges, after the jury's verdict has been rendered, to thank jurors for their service to the community. Also, some jurisdictions mail jurors a letter or certificate of appreciation.

Organizations Supporting Law-Related Education

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5307 East Mockingbird Lane, Suite 1060
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Tel: 800-779-5879
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The Foundation of the American Board of Trial Advocates provides education concerning the history and value of the right to trial by jury.

American Bar Association Division for Public Education: National Law-Related Education Resource Center (NLRC)

541 North Fairbanks Court, 15th Floor
Chicago, IL 60611-3314
Tel: 312-988-5735
The Bar Association has helped to develop a number of school programs about the legal process.

Association of Trial Lawyers of America (ATLA)

1050 31st Street NW
Washington, DC 20007
Tel: 800-424-2725
Tel: 202-965-3500
This organization safeguards victims' rights and strengthens the civil justice system through education.

Center for Civic Education

5146 Douglas Fir Road
Calabasas, CA 91302
Tel: 800-350-4223
Teachers find the Center for Civic Education to be an invaluable source of interactive classroom materials and references on all aspects of citizenship.

Citizenship and Law-Related Education Center

9738 Lincoln Village Drive
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Tel: 916-228-2322
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This nonprofit organization works with schools and communities to teach K–12 students the skills, knowledge, and attitudes needed to become responsible and productive citizens.

Constitutional Rights Foundation

601 South Kingsley Drive
Los Angeles, CA 90005
Tel: 800-488-4273
The Constitutional Rights Foundation produces a variety of law-related educational publications and sponsors the national Mock Trial competition.

National Institute for Citizen Education in the Law (NICEL)

711 G Street SE
Washington, DC 20003
Tel: 202-546-6644
This national institute is noted for its dedication to fostering understanding of the law and the legal system. It develops curriculum and trains teachers in facilitating effective student-centered, law-related education classes.

Phi Alpha Delta Law Fraternity International Public Service Center

1511 K Street NW, Suite 611
Washington, DC 20005
Tel: 202-638-2898
Phi Alpha Delta's public service center has prepared drug manuals for each state, the District of Columbia, and Puerto Rico. It provides outside resource people to work with teachers in teaching law-related education and publishes a "Lesson Plan of the Month."

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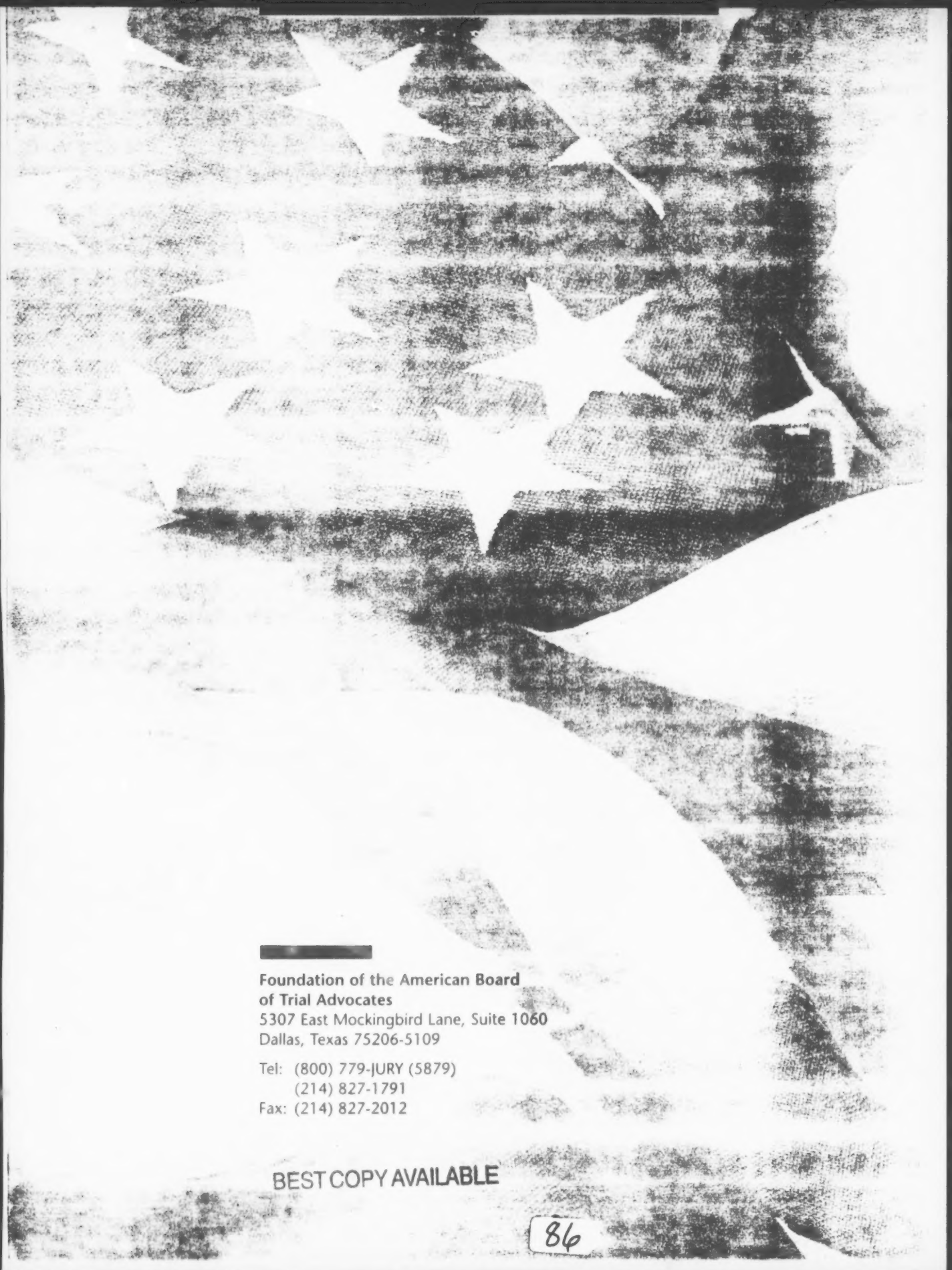

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